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OF

THE UNITED STATES

FROM THE

ACCESSION OF THOMAS JEFFERSON TO THE PRESIDENCY, EXHIBITING A COMPLETE VIEW OF OUR FOREIGN RELATIONS SINCE THAT TIME.

1809—11.

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DISTRICT CLERK'S OFFICE.

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WILLIAM S. SHAW,
Clerk of the District of Massachusetts.

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John Browne Cutts

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ACCOMPANYING THE PRESIDENT'S MESSAGE OF NOVEMBER 29, 1809.

(Continued from preceding volume.)

The Secretary of State to Mr. Jackson.

DEPARTMENT OF STATE, OCT. 9, 1809.

SIR,

AN arrangement, as to the revocation of the British orders in council, as well as to the satisfaction required in the case of the attack on the Chesapeake frigate, has been made in due form by the government of the United States, with David Montague Erskine, Esq. an accredited minister plenipotentiary of his Britannic majesty. And after it had been faithfully carried into execution on the part of this government, and under circumstances rendering its effects on the relative situation of the United States irrevocable, and in some respects, irreparable, his Britannic majesty has deemed it proper to disavow it, to recall his minister, and to send another to take his place.

In such a state of things, no expectation could be more reasonable, no course of proceeding more obviously prescribed by the ordinary respect due to the disappointed party, than a prompt and explicit explanation, by the new functionary, of the grounds of the refusal, on the part of his government, to abide by an arrangement so solemnly made—accompanied by a substitution of other propositions.

Under the influence of this reasonable expectation, the President has learned, with no less surprise than regret, that in your several conferences with me you have stated:

1. That you have no instructions from your government which authorize you to make any explanations whatever to this government, as to the reasons which had induced his

Britannic majesty to disavow the arrangement lately made by your predecessor, and that therefore you could not make any such explanations.

2. That in the case of the Chesapeake, your instructions only authorize you, (without assigning any reason whatever why the reasonable terms of satisfaction, tendered and accepted, have not been carried into effect) to communicate to this government a note tendering satisfaction, with an understanding, that such note should not be signed and delivered by you, until you should have previously seen and approved the proposed answer of this government, and that the signing and the delivery of your note and of the answer of this government, should be simultaneous.

3. That you have no instructions which authorize you to make to this government any propositions whatever, in relation to the revocation of the British orders in council; but only to receive such as this government may deem it proper to make to you.

4. That, at all events, it is not the disposition or the intention of the British government to revoke their orders in council, as they respect the United States, but upon a formal stipulation on the part of the United States, to accede to the following terms and conditions, viz.

1. That the act of Congress, commonly called the non-intercourse law, be continued against France so long as she shall continue her decrees.

2. That the navy of Great Britain be authorized to aid in enforcing the provisions of the said act of Congress.

3. That the United States shall explicitly renounce, during the present war, the right of carrying on any trade whatever, direct or indirect, with any colony of any enemy of Great Britain, from which they were excluded during peace; and that this renunciation must extend, not only to the trade between the colony and the mother country, but to the trade between the colony and the United States.

If in the aforegoing representation it should appear, that I have in any instance misapprehended your meaning, it will afford me real pleasure to be enabled to lay before the

President a statement corrected agreeably to any suggestions with which you may be pleased to favour me.

To avoid the misconceptions incident to oral proceedings, I have also the honour to intimate, that it is thought expedient that our further discussions, on the present occasion, be in the written form. And with great sincerity I assure you, that whatever communications you may be pleased thus to make, will be received with an anxious solicitude to find them such as may lead to a speedy removal of every existing obstacle to that mutual and lasting friendship and cordiality between the two nations, which it is obviously the interest of both to foster. I have the honour to be, &c.

(*Signed*) R. SMITH.

Mr. Jackson to Mr. Smith.

WASHINGTON, OCT. 11, 1809.

SIR,

I HAVE had the honour of receiving your official letter of the 9th instant, towards the close of which you inform me, that it had been thought expedient to put an end to all verbal communication between yourself and me, in discussing the important objects of my mission. Considering that a very few days have elapsed since I delivered to the President a credential letter from the king my master, and that nothing has been even alleged to have occurred, to deprive me of the facility of access, and of the credit to which, according to immemorial usage, I am by that letter entitled, I believe there does not exist in the annals of diplomacy a precedent for such a determination between two ministers, who have met for the avowed purpose of terminating amicably the existing differences between their respective countries; but, after mature reflection, I am induced to acquiesce in it by the recollection of the time that must necessarily elapse before I can receive his majesty's commands upon so unexpected an occurrence, and of the detriment that would ensue to the publick service, if my ministerial functions were, in the interval, to be altogether suspended. I shall therefore content myself with entering my protest

against a proceeding which I can consider in no other light, than as a violation, in my person, of the most essential rights of a publick minister when adopted, as in the present case, without any alleged misconduct on his part. As a matter of opinion, I cannot I own, assent to the preference which you give to written, over verbal intercourse for the purpose of mutual explanation and accommodation. I have thought it due to the publick character with which I have the honour to be invested, and to the confidence which his majesty has most graciously been pleased to repose in me, to state to you unreservedly my sentiments on this point. I shall now proceed to the other parts of your letter, and apply to them the best consideration that can arise from a zeal proportioned to the increase of difficulty thus thrown in the way of the restoration of a thorough good understanding between our respective countries.

You state, sir, very truly, that an arrangement had been made between you and Mr. Erskine, and that his majesty had thought proper to disavow that arrangement.

I have here in the outset, to regret the loss of the advantage of verbal intercourse with you, as I should have availed myself of it to inquire whether by your statement, it were your intention to complain of the disavowal itself, or of a total want of explanation of it, or of the circumstance of that explanation not having been made through me. I observe that in the records of this mission there is no trace of a complaint, on the part of the United States, of his majesty having disavowed the act of his minister. You have not in the conferences we have hitherto held, distinctly announced any such complaint, and I have seen with pleasure, in this forbearance, on your part, an instance of that candour, which I doubt not, will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act, done under such circumstances, as *could only* lead to the consequences that have actually followed.

It was not known when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions. It now appears that he did not. But in reverting to his official correspondence, and particularly to a despatch addressed on the 20th of April to his majesty's secretary of state for foreign affairs, I find that he there states, that he had submitted to your consideration the three conditions specified in those instructions, as the ground work of an arrangement which, according to information received from this country, it was thought in England might be made, with a prospect of great mutual advantage.—Mr. Erskine then reports *verbatim et seriatim* your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows that those original conditions were in fact very explicitly communicated to you, and by you of course laid before the President for his consideration. I need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint on the part of the American government, viz.: that under such circumstances his majesty had an undoubted and incontrovertible right to disavow the act of his minister. I must here allude to a supposition, which you have more than once mentioned to me, and by which, if it had any the slightest foundation, this right might perhaps have been in some degree affected. You have informed me that you understood that Mr. Erskine had two sets of instructions, by which to regulate his conduct; and that upon one of them, which had not been communicated either to you or to the publick, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, solemnly to declare to you, and through you,

to the President, that the despatch from Mr. Canning to Mr. Erskine which you have made the basis of an official correspondence with the latter minister, and which was read by the former to the American minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates.

To return to the immediate subject of your letter. If, sir, it be your intention to state, that no explanation whatever has been given to the American government of the reasons which induced his majesty to disavow the act of my predecessor, I must, in that case, observe that in the instructions conveying to him his majesty's intention, those reasons were very fully and forcibly stated; and if he has not transmitted them to you, I can only attribute it to the peculiar delicacy and embarrassment of his situation, for which he probably trusted to the President's goodness to make some allowance; and he might the more reasonably be led to that reliance on it, as a full and ample communication was also made upon the subject by his majesty's secretary of state for foreign affairs to Mr. Pinkney, to whom the whole of Mr. Erskine's original instruction was read, and who it was natural to suppose, would convey to his government so much information upon a very momentous occasion, as would relieve Mr. Erskine from the necessity of entering into minute details of the misunderstanding that had occurred. At all events, no complaint can be substantiated against his majesty's government on this score, seeing that they not only instructed the minister who had made the disavowed arrangement as to the motives which occasioned the disavowal, but also with frankness, promptitude, and a most scrupulous regard to national honour, gave notice to the American minister in London of the disavowal, of the motives of it, and of the precautions spontaneously taken by his majesty to prevent any loss or injury accruing to the citizens of the United States from a reliance on any agreement, however unauthorized, made in his majesty's name. The mere allusion to this latter

circumstance dispenses me from further noticing the effects which you describe as being produced upon the United States by the circumstances of this agreement. How far they are irrevocable it is not for me to determine; but the word *irreparable* seems to imply that a loss had been sustained on the occasion by the publick, or by individuals of this country. So far as his majesty could be by possibility supposed answerable for such an eventual loss, he has, as I have before stated, taken the utmost precautions to avert it.

As to the expectation entertained here, that the explanation of his majesty's share in this transaction should be made through me, I might content myself with simply observing, that I was not provided with instructions to that effect, because it was known that the explanation in question had already been given. But it accords with the sentiments of his majesty towards this country to observe also, that he considered, that as some time must necessarily elapse between my appointment and my entrance on the duties of my ministry, it would be a more friendly mode of proceeding to state without delay, and through the channels I have already mentioned, the motives that compelled his majesty to disavow the agreement, than to leave the American government in uncertainty in these respects, till the unavoidably protracted period of my arrival in America. I say this in regard to the original notification of his majesty's determination and of the motives of it, which being already made, it could not be supposed in London that a repetition of them would be expected from me; and of course no such case has been foreseen in my instructions. But if, beyond this, any incidental explanation or discussion should be wished for by this government, I came fully prepared to enter into them. I even consider them to have taken place between us. I have certainly derived great satisfaction from the several hours which we have spent in conference upon these subjects, because they have enabled me to remove some misunderstandings, and to refute many misrepresentations, which you yourself in-

formed me of, in regard to the conduct of the British government. I consider such mutual explanations as highly beneficial to a right understanding of the views and interests of the two countries, and I should with much pleasure have renewed them, if you had not informed me that the President had been pleased to prescribe another and a different mode of conducting our negotiations.

I will nevertheless avail myself of that mode which he still permits to repeat to you, that his majesty has authorized me, notwithstanding the ungracious manner in which his former offer of satisfaction for the affair of the Chesapeake was received, to renew that which Mr. Erskine was instructed to make. You have said that you so fully understood the particulars of that offer, that I deem it unnecessary to recapitulate them here; I regret that, since they were so clearly understood by you, you should not yet have been enabled to state to me, either in our personal communications, or in the letter which I am now answering, whether they are considered by the President as satisfactory, or whether they are such as he ultimately means to accept. You seem not so distinctly to have understood the form of proceeding in this affair, which I took the liberty of suggesting as likely to lead to a satisfactory result, without however at all precluding any other method which might appear preferable to you. My proposal was, not to communicate a note *tendering* satisfaction, but to agree with you beforehand upon the terms of a declaration on the part of his majesty, *which should actually give the satisfaction* (the conditions of which I informed you that I was authorized to carry into immediate execution) and of a counter declaration to be signed by you on the part of the United States, for the purpose of accepting such satisfaction. I expressly stated that this interchange of official documents was not meant by me as the means of conveying to each other our respective sentiments; *that* I understood to be, as is usual, the object of our conferences; and I imagined that the papers to be signed by us respectively, would be the result of those sentiments so communicated, and that

by being reciprocally corrected and modified, and simultaneously delivered, they would form one compact by which the two countries would be equally bound. This course of proceeding is conformable to the practice of the courts of Europe on similar occasions. You did not at the time appear to object to it; you even requested me to come the next day prepared with a draft or project of a paper, framed in pursuance to these ideas, and although you desired to refer the subject to the President for his approbation, I do not find in your letter either an expression of his sentiments upon it, or the substitution of any other form that might be more agreeable to him, than the one which I have proposed.

I touch with considerable and very sincere reluctance upon that part of your letter, in which you state that I had not assigned "any reason whatever why the reasonable terms of satisfaction tendered and accepted have not been carried into effect."

I believe that I had observed to you, in the words of my instructions, that if his majesty were capable of being actuated by any desire to retract an offer of reparation which he had once made, his majesty might be well warranted in doing so, both by the form in which his accredited minister had tendered that reparation, and by the manner in which that tender had been received. I believe that I elucidated this observation by a reference to the particular expressions, which made the terms of satisfaction appear to be unacceptable even to the American government, at the very moment when they were accepted, and which at all events put it totally out of his majesty's power to ratify and confirm any act in which such expressions were contained.

On the subject of his majesty's orders in council, I have had the honour of informing you that his majesty having caused to be made to the government of the United States certain proposals, founded upon principles, some of which were understood to originate in American authorities, and others to be acquiesced in by them; and having after-

wards ascertained, in the manner mentioned in a former part of this letter, that the sentiments of the American government were so different from what they were at first understood to be, I was not instructed to renew to you those proposals: nor to press upon your acceptance an arrangement which had been so recently declined, especially as the arrangement itself is become less important, and the terms of it less applicable to the state of things now existing.

Those considerations which were first intimated in Mr. Canning's official letter to Mr. Pinkney of the 23d Sept. 1808, and which, in the process of the following six months, acquired greater weight and influence, induced his majesty, before the result of Mr. Erskine's negotiation was known, to modify the orders in council of November, 1807, by that of the 26th April, 1809.

The effect of this new order is to relieve the system under which the former orders were issued, from that which has always been represented in this country, as the most objectionable and offensive part of it, the option given to neutrals to trade with the enemies of Great Britain through British ports on payment of a transit duty. This was originally devised and intended as a mitigation of what is certainly more correct but more rigid in principle, the total and unqualified interdiction of all trade with the enemy. If, however, this mitigation was felt as an aggravation, and, as has been sometimes warmly asserted, as an insult, that cause of complaint is now entirely removed. By the order in council of the 26th April, 1809, all trade with France and Holland, and the ports of Italy, comprehended under the denomination of the kingdom of Italy, is simply prohibited altogether. No option is afforded, and consequently no transit duty is required to be paid. In another respect, the order in council of the 26th April must be admitted to be more restrictive than those of November, 1807.

The trade with enemies' colonies which was opened to neutrals at the commencement of the present war by the

order in council of the 24th June, 1803, was continued to be left open by those of November, 1807. The order in council of the 26th April retracts this indulgence. But it is to be observed, that since the period, when the orders in council of November, 1807, were issued, the opening of the ports of Spain, of Portugal, of the south of Italy, and of Turkey, has afforded a more ample scope to neutral commerce; and that by the capture of Martinique in addition to that of almost all the colonies of the enemies of Great Britain, together with the blockade of Guadaloupe, the extent to which the liberty of commerce with enemies' colonies applied, has been so far narrowed, that there is little of practical hardship in recurring to the rule which, however occasionally mitigated in its application, Great Britain can never cease in principle to maintain. It is farther to be observed, that the order in council of the 26th April, has this operation highly favourable to neutrals, that restricting the regulations of blockade to France, Holland, and their colonies, and to the territories denominated the kingdom of Italy, it lays open to the direct trade of neutrals the ports of the north of Europe. Under the order of the 26th of April, therefore, while there are on the one hand fewer points of difference to stand in the way of a satisfactory arrangement between Great Britain and the United States, it is possible that there may be less temptation to the latter to enter into such an arrangement, as the extent of their commerce may be, if they please, nearly as great under the order in council of the 26th April, as it would be under any arrangement which should affect the indispensable objects to which that order applies; or as it would be even without any such order, so long as France and the powers subservient to France, continue to enforce their decrees. It is, in the same proportion, matter of indifference to Great Britain, whether the order in council be continued, or an arrangement by mutual consent, substituted in its room.

Such, sir, are the grounds on which it has appeared to

his majesty to be unnecessary to command me to propose to the government of the United States any formal agreement to be substituted for that which his majesty has been under the necessity of disavowing; but I am directed to receive and discuss with you any proposal which you may be authorized to make to me on this head.

As no disposition has hitherto been shown on your part to make any such proposal, it has been impossible for me to state by anticipation, (nor was I instructed so to do) what might be the answer that I should eventually think it my duty to return to you; consequently I could not have made with that view the statement contained in the fourth section of your letter, and the three subdivisions of it. Such a statement would have been obviously inconsistent with the former part of my overture, which you very correctly record in the third section, viz.—that I was not instructed to make to you any proposal whatever upon this subject. I must necessarily reserve, until I hear from you what proposals it may be deemed proper to make on behalf of the United States, to state in how far they do or do not accord with the instructions which it has pleased his majesty to give me for my guidance in this negotiation.

I will only add, sir, in conclusion of this letter, that his majesty is very sincerely desirous of maintaining a perfect and cordial understanding with the United States, and of bringing to a complete and satisfactory adjustment, all the points of difference that have arisen between the two governments; and that, agreeing as I do with you, most heartily, as to the interest which both nations have in fostering a mutual and solid friendship and cordiality, no zeal or exertions shall be wanting on my part to carry into effect his majesty's commands for this most salutary purpose.

I have the honour to be, &c.

(*Signed*) F. J. JACKSON.

From the Secretary of State to Mr. Jackson.

DEPARTMENT OF STATE, OCT. 19, 1809.

SIR,

I HAVE had the honour of receiving your letter of the 11th instant.

Before I proceed to the more material topicks, which it embraces, it is proper that I should take some notice of your construction which has unhappily converted an intimation of the expediency of conducting in a written form our further discussions, on this particular occasion, into a general prohibition of all verbal communications whatever, and into an unprecedented violation of the most essential rights of a publick minister requiring a formal protest and a resort to the commands of your sovereign.

A recurrence to that intimation cannot fail to show, that its sole object was to avoid, in the *further* discussions of a case of unusual delicacy and importance, the misconceptions well known to be incident to oral proceedings, and of which the diplomatick intercourse between the two governments had furnished so many and such serious proofs; nay, of which your letter itself is an additional illustration. That a change in diplomatick discussions, from an oral to a written form is not without precedent, I cannot refer to one which will be more satisfactory to you, than the intimation recently given by Mr. Canning in the case of the proposal by Mr. Pinkney, on the subject of the orders in council and the embargo, that the discussions which had been previously verbal must thenceforth take a written form. And with this view I take the liberty of recalling your attention to the subjoined extracts (see A. and B.) of letters that passed on that occasion.

On the present, as on that occasion, the change from verbal to written communications was requested after two conferences, and when the subject appeared to one of the parties to have, by those verbal discussions, been brought to a point which required a precise understanding of the views and propositions of the other.

You will, sir, hence perceive, that in maintaining the right, which every government has as to the rules of intercourse with foreign functionaries near it, no encroachment has been made or intended on any right or customary privilege belonging to you in that character, nor any thing done to impede the proper and usual course of negotiation.

You have been sufficiently apprized, by my letter of the 9th, of the light in which the President views the arrangement lately made by your predecessor with this government, and of the grounds on which he has expected a formal and satisfactory explanation of the reasons for the refusal of his Britannic majesty to carry it into effect. He persists in that expectation, and in the opinion that there has been given no explanation that is adequate, either as to the matter or as to the mode.

When one government has been solemnly pledged to another in a mutual engagement by its acknowledged and competent agent, and refuses to fulfil the pledge, it is perfectly clear, that it owes it, both to itself and to the other party to accompany its refusal with a formal and frank disclosure of sufficient reasons for a step, which, without such reasons, must deeply injure its own character, as well as the rights of the party confiding in its good faith.

"To refuse with honour, (says a high authority on publick law,) to ratify what has been concluded on by virtue of a full power, it is necessary that the government should have *strong and solid reasons*, and that he show in particular that his minister has violated his instructions."

Although it is particularly incumbent on the sovereign in such case to show that his instructions have been violated, yet it is not a mere violation of them on immaterial points that will be sufficient. It is indispensably requisite, moreover, that the reasons be *strong and solid*, that they manifestly outweigh, not only the general obligation to abide by what has been so done, but also the disappointment and injury accruing to the other party. And it is worthy of notice that the case under discussion is of a higher character and appeals with greater solemnity to

the honour and justice of the refusing party than the case stated in Vattel, inasmuch as the transaction, now disavowed, was not a treaty or convention to be ratified by both parties, previous to an execution by either. It had, according to the terms of it (and this peculiarity appears to have been contemplated by your government) been actually and immediately carried into execution on the part of the United States. The refusal of his Britannic majesty is, therefore, not simply to ratify what had been ratified by the other party, but to carry into effect on his part an arrangement which had been carried into full effect, with good faith on the part of the United States. Nay, the case is strengthened by the further peculiarity, that some of the circumstances, attending the execution of the arrangement on the part of the United States, render it unsusceptible of a full equivalent for the refusal to execute it on the other side.

It has not escaped observation that the obligation of your government to tender explanations on this occasion is admitted by your attempt to show that it has been sufficiently done in what passed in conversation between Mr. Canning and Mr. Pinkney, and by the instructions given to Mr. Erskine to communicate such explanations.

With every disposition to view in the most favourable light whatever may affect the relations between the two countries, it is impossible to mistake the conversations of those ministers for a discharge of such a debt to the good faith and reasonable expectations of the United States. Besides that they were mere conversations in a case, requiring the precision and respect of a formal communication, it is certain, that it was neither understood by Mr. Pinkney, nor intended by Mr. Canning, that those conversations were so to be regarded. Mr. Pinkney is explicit on this point. And Mr. Canning himself, after declining to recapitulate in writing what he had verbally remarked, signified to Mr. Pinkney in a letter dated May 27, that his observations on the subject would be more properly made through the successor of Mr. Erskine, who was about to proceed to the United States.

With respect to the instructions on this point given to Mr. Erskine, it might be sufficient to remark that they were never carried into execution; but it may be asked, whether it was a mark of friendly respect to the United States to employ for such a purpose a minister from whom his government had thought proper publickly to withdraw its confidence, and to the peculiar delicacy and embarrassment of whose situation you have yourself referred, as accounting for his not having executed the task imposed upon him.

I must here repeat, what was suggested in my former letter, that the successor of Mr. Erskine is the proper functionary for a proper explanation. Nor can I perceive the force of your remark that the delay incident to your arrival in the United States rendered it more consistent with the friendly sentiments of his majesty to prefer the other channels for communicating the motives for his disavowal. To your own reconsideration I appeal, whether the course most consonant to those friendly sentiments was not the obvious one of employing the new organ, guarding at the same time against any misconstruction of the delay by apprizing the American government through its minister of the cause of it. The supposition that the delay incident to your mission gave rise to the conversation of Mr. Canning and Mr. Pinkney, is not reconcilable to the correspondence of the latter, which contains no such indication. On the contrary it distinctly shows that he was apprized of the intention to replace Mr. Erskine by a successor whom he regarded as the proper channel for the explanatory communications, that he understood Mr. Canning to be under the same impression, and that he learned from yourself, not more than two days after his conversations with Mr. Canning that you were to sail for the United States within three weeks.

Although it may not have been your intention to have given to this subject a posture which it would not have naturally assumed; yet such has been the tendency of some of your remarks, and particularly of the conclusion

you have drawn from the two circumstances, 1st, That no trace of complaint from this government against the disavowal appears in the records of the British mission or was distinctly announced by me in our conferences; and 2d, That from the official correspondence of Mr. Erskine with his government, it appears that although he did not communicate in extenso his original instructions, he submitted to me the three conditions therein specified, and received my observations on each.

If there be no trace of complaint against the disavowal in the archives of the mission, it is because this government could not have entered such complaint before the reasons for the disavowal had been explained, and especially as the explanations were justly and confidently expected through the new functionary. And as to the supposed reserve on my part on this subject, in our several conferences, I did imagine, that my repeated intimations to you of the necessity of satisfactory explanations as to the disavowal, were sufficient indications of the dissatisfaction of this government with respect to the disavowal itself.

The stress you have laid on what you have been pleased to state as the substitution of the terms finally agreed on, for the terms first proposed, has excited no small degree of surprise. Certain it is, that your predecessor did present for my consideration the three conditions, which now appear in the printed document—that he was disposed to urge them more than the nature of two of them (both palpably inadmissible and one more than merely inadmissible) could permit, and that on finding his first proposals unsuccessful, the more reasonable terms comprised in the arrangement respecting the orders in council were adopted. And what, sir, is there in this to countenance the conclusion you have drawn in favour of the right of his Britannic majesty to disavow the proceeding? Is any thing more common in publick negotiations, than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two, or

more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible in case the more desirable should not be attainable. This must be obvious to every understanding, and it is confirmed by universal experience.

What were the real and entire instructions given to your predecessor is a question essentially between him and his government. That he had, or at least, that he believed he had sufficient authority to conclude the arrangement, his formal assurances, during our discussions, were such as to leave no room for doubt. His subsequent letter of 15th June, renewing his assurance to me "that the terms of the agreement so happily concluded by the recent negotiation, will be strictly fulfilled on the part of his majesty," is an evident indication of what his persuasion then was as to his instructions. And with a view to show what his impressions have been even since the disavowal, I must take the liberty of referring you to the annexed extracts (*see C.*) from his official letters of the 31st July, and of the 14th of August.

The declaration "that the despatch from Mr. Canning to Mr. Erskine of the 23d January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates," is now for the first time made to this government. And I need hardly add that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

As you have disclaimed any authority to offer explanations for the disavowal, as you have been willing to ascribe the want of such authority to the consideration that other channels had been preferred, and as you have even considered the circumstances under which the arrangement

took place to be such as could only lead to a disavowal, and therefore as superseding the necessity of any explanation whatever, it is to be regretted, that you had not deemed it proper to render precise and explicit that part of your letter, which seems to imply that you had, in our conversations in relation to the affair of the Chesapeake, following the words of your instructions, held out not only the manner in which the reparation had been accepted, but even the form in which it had been tendered, as warranting his majesty in even retracting the offer of reparation, and that you had elucidated the observation by a reference to the particular expressions which at all events put it totally out of his power to confirm any act containing them.

Whatever may have been your intention in this part of our conversation, or whatever may be the import of the passage to which I have just alluded, I have now the honour of signifying to you, that I am authorized to receive, in a proper form, whatever explicit explanations you may choose to make with respect to the grounds of this part of the disavowal; and without inquiring whether your authority be derived from instructions that have been addressed to yourself, or that have devolved on you as the successor of the minister, who had declined to execute them.

As you have at the same time been pleased to say, that his Britannic majesty had authorized you to renew the offer of satisfaction which Mr. Erskine was instructed to make, it was also naturally expected that you would in your letter have stated with precision in what that offer differed from the reparation solemnly tendered by Mr. Erskine, and accepted by the United States, and that you would have shown in what the reparation thus tendered differed from his instructions. And when I had the honour to intimate that, in order to avoid the misconceptions incident to oral proceedings, it was thought expedient that our further discussions on the present occasion should be in the written form, there was no part of the subject to which that intimation applied with more force than the case of the Chesapeake; none on which it was more desirable to

avoid misconceptions, and to obtain a precise knowledge of the propositions which you were authorized to make; not only because I did not really understand the particulars of the offer as distinctly as you seem to have supposed, but also because, on that point, and on that alone, you had expressly stated, that you had propositions to make, and that you were authorized to carry them into immediate execution.

On the subject of the orders in council, the President perceives with sentiments of deep regret, that your instructions contemplate, neither an explanation of the refusal of your government to fulfil the arrangement of that branch of the existing differences, nor the substitution of any other plan of adjustment, nor any authority to *conclude* any agreement on that subject, but merely to receive and discuss proposals, that might be made to you on the part of the United States; and these it appears must include a stipulation on the part of the United States to relinquish the trade with the enemies colonies, even in branches not hitherto interrupted by British orders for capture, and also a sanction to the enforcing of an act of Congress by the British navy.

Were the way properly opened for formal propositions from this government, a known determination on the part of his Britannic majesty to adhere to such extraordinary pretensions, would preclude the hope of success in such advances, whether regard be had to the conditions themselves or to the disposition they indicate, in return for the conciliatory temper which has been evinced by the United States.

As to the demand in relation to the colonial trade, it has been the less apprehended, as it is not in itself connected, nor has it ever before been brought into connection either with the case of the orders in council or with that of the Chesapeake. And it was reasonably to be presumed, if the idea of such a condition had in the first instance proceeded from the erroneous belief, that it was not objectionable to the United States, that it would not have been

persisted in after that errour had been ascertained and acknowledged.

The other demand could still less have been apprehended. Besides the inevitable and incalculable abuses incident to such a license to foreign cruisers, the stipulation would touch one of those vital principles of sovereignty which no nation ought to have been expected to impair. For where would be the difference in principle between authorizing a foreign government to execute and authorizing it to make laws for us. Nor ought it to be supposed, that the sanctions and precautions of a law of the United States in the cases of the prohibited trade in question would prove inefficacious for its purposes.

Had none of those obstacles presented themselves to the course corresponding with the sentiments and dispositions of the President, I should have felt great pleasure in giving you formal assurances of his readiness to execute the conditional authority with which he is invested for restoring in its full extent, as far as it may depend upon the United States, the commercial intercourse of the two countries; and that he would, moreover, be disposed to extend the experiment of a friendly negotiation to every point of difference and of mutual interest between them. If, indeed, in the event of a successful termination of what relates to the case of the Chesapeake, it be thought that a removal of the difficulties arising from the orders in council might be facilitated by comprehending them in a general negotiation, and the operation of the orders can, in the mean time, be suspended, the door might be considered as immediately open to that course of proceeding.

To such a suspension no reasonable objection can be made, if, as you have stated, the orders in council, as now modified, leave the trade of the United States nearly as great as it would be without the existence of such orders, so long as France and the other powers shall continue their decrees, and inasmuch as a discontinuance of their decrees by those powers confessedly requires an immediate and entire revocation of the orders in council.

That a suspension of the orders with a view to their being brought into a general negotiation is more reasonable than a temporary submission to their authority by the United States with that view, is obvious from the reflection that such a submission would necessarily involve a relinquishment of the principle which they have steadfastly asserted; whereas a discontinuance of the orders in council in the present actual state of things would not be incompatible with the principle on which they were originally founded.

This principle was, as you well know, the necessity of retaliating through neutrals injuries received through a violation of their rights by another belligerent. In the actual state of things, and under the actual modification of the orders in council produced by it, it is admitted by you, that the orders have no practical effect in abridging the commerce of neutrals, and can of course have no retaliating effect on the other belligerents.

Although it cannot be allowed to be true, that the orders in council are no longer injurious to the commerce of the United States, it is certainly true, that they produce no degree of injury to the enemies of Great Britain, that can countenance the retaliating plea alleged in support of them.

What, permit me to ask, is the degree of injury actually accruing to the enemies of Great Britain from her retaliating orders? According to those orders as now modified, and more especially taking into view along with them the prohibitory law of this country in relation to France, the essential difference between their repeal and their existence consists in this—that in the case of their repeal, as pledged by the arrangement of April, the trade of the United States might be carried on directly with the ports of Holland, whilst during their existence, as at present, it is to be carried on through the contiguous and neighbouring ports. To your own calculations, sir, I submit, whether the inconsiderable effect of this circuit on the prices in Holland, and in the countries supplied through her, can any longer sustain the plea of inflicting distress on an enemy, or palliate the injuries done to a friend by a proceeding so

contrary to his sentiments of justice, and which subjects his regular commerce not only to inconvenient channels, but to all the abuses which may result from the suspicions, real or pretended, of interested citizens. You cannot but be sensible, that a perseverance under such circumstances in a system, which cannot longer be explained by its avowed object, would force an explanation by some object not avowed. What object might be considered as best explaining it is an inquiry into which I do not permit myself to enter, further than to remark that in relation to the United States it must be an illegitimate object.

It remains to make a few observations which are due to the just interest of the United States, and which are invited by yours relating to the order in council of May last.

You seem to consider that measure as comprising the utmost precaution that was in the power of his Britannic majesty to take, for preventing losses, from his disavowal of the engagement of your predecessor, to citizens of the United States, who had resumed their commercial pursuits on the faith of that act.

Without entering into a full view of the inadequacy of the order in that respect, I take the liberty of pointing out the following instances in which it falls essentially short of its declared intention.

1st. The order does not provide for the important case, of vessels returning with cargoes from the ports of Holland.

2d. The exemption from interruption of vessels bound from the United States to Holland was restricted by that order to such as should have departed prior to the 20th of July, at which date it is not certain that the order, which was not officially communicated until the 31st of that month, had even reached any one point of the United States. So that some vessels may have sailed between the limited date and the arrival of the order in the United States, and many from distant ports must have done so after its arrival but before a knowledge of it had become general, all proceeding on the faith of the arrangement, yet all left by the order exposed to capture and condemnation.

3d. The order does not provide for the important case of vessels, which had sailed on the like faith for Dutch ports other than those of Holland.

4th. It does not include in its provisions the extensive list of vessels going indirectly from the United States but directly from foreign ports to those of Holland, nor vessels trading entirely from foreign ports to Holland; and in both these instances proceeding on the faith of the arrangement professed to be respected within the defined period.

It is true, that in these last instances the vessels were not to be captured without an attempt after contrary warning to proceed to those ports. But I need not remind you that the injuries incident to the delay and to the breaking up of such voyages cannot but have been considerable, and will have resulted as manifestly from the disappointed faith in the arrangement, as in the cases specially provided for, and consequently with all other losses fairly resulting from the same bona fide confidence in that act they will fall within the just indemnification for which the principle assumed in the order, is a formal pledge.

I conclude, sir, with pressing on your candid attention, that the least which the President could have looked for in consequence of the disavowal of a transaction such as was concluded by your predecessor and carried faithfully into effect by this government, was an explanation from yours of the disavowal, not through the minister disavowed, but through his successor; an explanation founded on reasons strong and solid in themselves, and presented neither verbally nor vaguely, but in a form comporting with the occasion and with the respect due to the character and the good faith of the disappointed party; that it has been found with much concern, and with not less surprise, that you are charged with no such explanations; that you have apparently wished to bring the subjects, which have been formally and definitively arranged into fresh negotiation, as if no such arrangement had taken place; that one of the cases thus slighted, viz. that of the frigate Chesapeake, is a case for which reparation, not denied to be due, had been

previously so long withheld, or rather in which the aggression itself has been spun out to the present moment by the continued detention of the mariners, whose seizure, making a part of the hostility committed against the American frigate, must be regarded in a light analogous to a continued detention of the ship itself; that in the other case, viz. that of the orders in council you are not authorized to tender explanations for the disavowal, or to propose any new arrangement, nor to conclude any agreement, but solely to receive and discuss proposals, which might be made to you, not concealing at the same time, that to be satisfactory they must include two conditions, both inadmissible; one altogether irrelevant to the subject, and the other requiring nothing less than a surrender of an unalienable function of the national sovereignty.

Notwithstanding these repulsive considerations, such is the disposition of the President to facilitate a final and comprehensive accommodation between the two nations, that he is ready, as I have already had the honour of signifying to you, to favour any mode of bringing about so happy an event that may be found consistent with the honour and the essential interest of the United States.

I have the honour to be, &c.

(*Signed*) R. SMITH.

(A.)

Extract of a Letter from Mr. Pinkney to Mr. Canning, dated London, October 10, 1808.

"At our first interview, (on the 29th June,) verbal communication was not discountenanced but commended: for after I had made myself understood as to the purpose for which the interview had been requested, you asked me if I thought of taking a more formal course, but immediately added that you presumed I did not, for that the course I had adopted was well suited to the occasion. My reply was in substance that the freedom of conversation was better adapted to our subject and more likely to conduct us to

an advantageous conclusion, than the constraint and formality of written intercourse, and that I had not intended to present a note. At the second interview (on the 22d July) it did not occur to me that I had any reason to conclude, and certainly I did not conclude, that verbal communication had not continued to be acceptable as a preparatory course; and it was not until the third interview (on the 29th July) that it was rejected as inadmissible."

(B.)

Extract from Mr. Canning to Mr. Pinkney, dated November 22, 1808.

"IT is highly probable that I did not (as you say I did not) assign to you as the motive of the wish which I then expressed, my persuasion, that written communications are less liable to mistake than verbal ones: because that consideration is sufficiently obvious; and because the whole course and practice of office is, in that respect, so established and invariable, that I really could not have supposed the assignment of any specifick motive to be necessary to account for my requiring a written statement of your proposals previous to my returning an official answer to them.

"I had taken for granted all along that such would, and such must, be the ultimate proceeding on your part, however you might wish to prepare the way for it by preliminary conversations."

(C.)

Extract of a Letter from Mr. Erskine to Mr. Smith, dated Washington, July 31, 1809.

"NEITHER the present time, nor the occasion, will afford me a favourable opportunity for explaining to you the grounds and reasons upon which I conceived I had conformed to his majesty's wishes, and to the spirit, at least, of my instructions upon that subject; nor, indeed, would any vindication of my conduct, (whatever I may have to offer) be of any importance, further than as it

might tend to show that no intention existed on my part to practise any deception towards the government of the United States."

From the same to the same, dated August 14, 1809.

"UNDER these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d January, (which formed but *one part* of his instructions to me) in the formal manner required, I considered that it would be in vain to lay before the government of the United States the despatch in question, which I was at *liberty* to have done *in extenso*, had I thought proper. But as I had such strong grounds for believing that the object of his majesty's government could be attained, though in a different manner, and the spirit, at least, of my *several* letters of instructions be fully complied with, I felt a thorough conviction upon my mind, that I should be acting in conformity with his majesty's wishes; and, accordingly, concluded the late provisional agreement on his majesty's behalf, with the government of the United States.

"The disavowal by his majesty is a painful proof to me that I had formed an erroneous judgment of his majesty's views and the intention of my instructions; and I have most severely to lament that an act of mine (though unintentionally) should produce any embarrassment in the relations between the two countries."

Mr. Jackson to the Secretary of State.

WASHINGTON, OCT. 23, 1809.

SIR,

THE letter which you did me the honour to address to me on the 19th instant, was delivered to me on the following day. I shall, without loss of time, transmit it to my court, where the various and important considerations which it embraces will receive the attention due to them. In the interval, I would beg leave to submit to you the

following observations, as they arise out of the communications that have already occurred between us.

In fulfilling a duty which I conceive to be due to my publick character, I have never suggested, nor meant to suggest, that the mode of negotiating prescribed by you on this particular occasion—an occasion selected for the purpose of removing existing differences, was otherwise objectionable, than as it appeared to me to be less calculated, than it does to you, to answer the professed purpose of our negotiation.

It was the general principle of debarring a foreign minister, in the short space of one week after his arrival, and without any previous misunderstanding *with him*, from all personal intercourse, that I thought it right to protest. Since, however, I find by your letter that it is not intended to apply that principle to me, I will only observe, that in the case which you mention to have occurred between Mr. Canning and Mr. Pinkney, the conferences were held under an expectation, at least on the part of the former, of their leading to a written communication; whereas, in ours, I, from the beginning, stated that I had no such communication to make. There is also this essential difference between the two cases, that Mr. Pinkney was charged to convey an important proposal to his majesty's government, the particulars of which it might be very material to have correctly stated, whilst the object of that part of my conversation, to which you seem to attach the most importance, was to say, that I was not charged to make any proposal whatever.

It could not enter into my view, to withhold from you an explanation, merely because it had been already given, but because, having been so given, I could not imagine, until informed by you, that a repetition of it would be required at my hands. I am quite certain that his majesty's government having complied with what was considered to be the substantial duty imposed upon it on this occasion, would, had this been foreseen, have added to the proofs of conciliatory good faith already manifested, the farther complacency to

the wishes of the United States, of adopting the form of communication most agreeable to them; and of giving through me the explanation in question. I have, therefore, no hesitation in informing you, that his majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time, in substance, made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement.

Nothing can be more notorious than the frequency with which, in the course of a complicated negotiation, ministers are furnished with a gradation of conditions, on which they may be successively authorized to conclude. So common is the case which you put hypothetically, that in acceding to the justice of your statement, I feel myself impelled to make only one observation upon it, which is, that it does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as in point of fact Mr. Erskine had no such graduated instruction. You are already acquainted with that which was given, and I have had the honour of informing you that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms, which he was actually induced to accept, having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed.

It may perhaps be satisfactory, that I should say here, that I most willingly subscribe, on this occasion, to the highly respectable authority which you have quoted, and I join issue with you upon the essentials which that authority requires to constitute a right to disavow the act of a publick minister.

It is not immaterial to observe on the qualification con-

tained in the passage you have quoted, as it implies the case of a minister concluding *in virtue of a full power.* To this it would suffice to answer, that Mr. Erskine *had no full power;* and his act consequently does not come within the range of your quotation; although it cannot be forgotten, that the United States have, at no very distant period, most freely exercised the right of withholding their ratification from even the authorized act of their own diplomatick agent, done under the avowed sanction of a full power.

I conceive that what has been already said establishes, beyond the reach of doubt or controversy, that his majesty's minister did violate his instructions; and the consequent right in his majesty to disavow an act so concluded. That his majesty had *strong and solid reasons* for so doing will appear not only from his instructions having been violated, but from the circumstance that the violation of them involved the sacrifice of a great system of policy, deliberately adopted and acted upon, in just and necessary retaliation of the unprecedented modes of hostility resorted to by his enemy.

There appears to have prevailed throughout the whole of this transaction, a fundamental mistake, which would suggest that his majesty had proposed to propitiate the government of the United States, in order to induce it to consent to the renewal of the commercial intercourse between the two countries; as if such had been the relations between Great Britain and America, that the advantages of that intercourse were wholly on the side of the former; and as if, in any arrangement, whether commercial or political, his majesty could condescend to barter objects of national policy and dignity for permission to trade with another country.

Without minutely calculating what may be the degree of pressure felt at Paris by the difference in the price of goods whether landed at Havre or at Hamburg, I will, in my turn, appeal to your judgment, sir, whether it be not a *strong* and *solid reason,* worthy to guide the councils of a great and powerful monarch, to set bounds to that spirit of

encroachment and universal dominion which would bend all things to its own standard? Is it nothing in the present state of the world, when the agents of France authoritatively announce to their victims "that Europe is submitting and surrendering by degrees," that the world should know, that there is a nation which by that divine goodness, so strongly appealed to in the paper to which I allude, (*Angereau's proclamation to the Catalonians*) is enabled to falsify the assertion? Is it not important at such a moment, that Europe and America should be convinced, that from whatever countries honourable and manly resistance to such a spirit may have been banished, it will still be found in the sovereign of the British nation and in the hearts of his subjects?

As to the precautions taken in England to ensure from injury upon this occasion, the citizens of the United States, and which appear to you to be even yet insufficient, I am confident that in every doubtful case the usual liberality of our tribunals will be exercised in determining upon the circumstances of it; and it was at Mr. Pinkney's express requisition, that additional instructions were given to the commanders of his majesty's ships of war and privateers to extend to vessels trading to the colonies, plantations and settlements of Holland, the same exemption from capture and molestation, as was granted to vessels sailing for any of the ports of Holland.

On the subject of return cargoes from those ports, I must observe, that although it was intended to prevent as far as was practicable, the inconveniences likely to be created by the unauthorized agreement made here in April last, yet it was not and could not be intended to obviate all possible inconveniences, even such as might have arisen if no such agreement had ever been made.

If an American vessel had sailed from America for Holland in time of profound peace, or in time of war, the ports of Holland not being at the date of sailing under blockade, it might yet have happened that, in the period between the commencement of such voyage and the arrival

of the vessel at the port of destination, a blockade might have been established before that port. The vessel arriving would, in that case, have been warned not to enter the port, and would have been turned away with the loss of the whole object of the voyage. This would be no extraordinary hardship, and would afford no legitimate ground of complaint.

The order in council is far less strict than such a blockade would be, forasmuch as it provides for the original voyage, commenced in expectation of being admitted to the port of destination, by permitting the entry into the ports of Holland; and it is no just ground of complaint, that it does not superadd to that permission the liberty to re-export a cargo of the enemy's goods or produce.

I beg leave briefly to recapitulate the substance of what I have had the honour to convey to you, as well in a verbal, as in written communications.

I have informed you of the reasons of his majesty's disavowal of the agreement so often mentioned; I have shown them, in obedience to the authority which you have quoted, to be both strong and solid, and such as to outweigh, in the judgment of his majesty's government, every other consideration which you have contemplated; I have shown that that agreement was not concluded in virtue of a full power, and that the instructions given on the occasion, were violated.

Beyond this point of explanation which was supposed to have been attained, but which is now given by the present letter, in the form understood to be most agreeable to the American government, my instructions are prospective; they look to substituting for notions of good understanding, erroneously entertained, practical stipulations on which a real reconciliation of all differences may be substantially founded; and they authorize me not to renew proposals which have already been declared here to be unacceptable; but to receive and discuss any proposal made on the part of the United States, and *eventually* to conclude a convention between the two countries. It is not of course intend-

ed to call upon me to state as a preliminary to negotiation, what is the whole extent of those instructions; they must, as I have before said, remain subject to my own discretion, until I am enabled to apply them to the overtures which I may have the honour of receiving from you.

I have the honour to be, &c.

(*Signed*) F. J. JACKSON.

Mr. Jackson to the Secretary of State.

WASHINGTON, OCT. 27, 1809.

SIR,

FINDING by your letter of the 19th instant that, notwithstanding the frequent statements made by me in our conferences of the terms of satisfaction which I am empowered to offer to this country for the unauthorized attack made by one of his majesty's ships of war, upon the frigate of the United States the Chesapeake, I have not had the good fortune to make myself distinctly understood by you, I have the honour to enclose herewith a paper of memoranda, containing the conditions on the basis of which I am ready to proceed to draw up with you the necessary official documents in the form proposed in my letter of the 11th instant, or in any other form upon which we may hereafter agree. I have the honour to be, &c.

(*Signed*) F. J. JACKSON.

Enclosed in Mr. Jackson's Letter of October 27, 1809.

THE President's proclamation of July, 1807, prohibiting to British ships of war the entrance into the harbours of the United States having been annulled, his majesty is willing to restore the seamen taken out of the Chesapeake, on reserving to himself a right to claim in a regular way, by application to the American government, the discharge of such of them (if any) as shall be proved to be either natural born subjects of his majesty, or deserters from his majesty's service.

His majesty is willing to make a provision for the fami-

lies of such men as were slain on board the Chesapeake in consequence of the unauthorized attack upon that frigate; provided that such bounty shall not be extended to the family of any man who shall have been either a natural born subject of his majesty, or a deserter from his majesty's service.

The Secretary of State to Mr. Jackson.

DEPARTMENT OF STATE, NOV. 1, 1809.

SIR,

YOUR letter of the 23d ultimo, which was duly received, would have been sooner acknowledged, had I not by my sickness been rendered for several days utterly unfit for business.

Although the delay and the apparent reluctance, in specifying the grounds of the disavowal of the arrangement with respect to the orders in council, do not correspond with the course of proceeding deemed most becoming the occasion; yet as the explanation has at length been thus made, it only remains, as to that part of the disavowed arrangement, to regret that such considerations should have been allowed to outweigh the solid objections to the disavowal; it being understood at the same time that his Britannic majesty perseveres in requiring as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with enemies colonies, and also a permission to the British navy to aid in executing a law of Congress; pretensions which cannot but render abortive all proposals whatever upon this subject, whether made by the United States or by his Britannic majesty.

Whilst you have deemed it proper to offer an explanation with respect to the disavowal of one part of the arrangement, I must remind you that there is not to be found in your letter any like specification of the reasons for the disavowal, nor particularly is it shown that the instructions were violated as to the other part, viz. the case of the Chesapeake; the case in which in an especial manner an

explanation was required, and in which only you professed to have authority to make to this government any overtures.

For the first time it is now disclosed that the subjects arranged with this government by your predecessor, are held to be not within the authority of a minister plenipotentiary, and that not having had a "full power distinct from that authority his transactions on those subjects might of right be disavowed by his government." This disclosure, so contrary to every antecedent supposition and just inference, gives a new aspect to this business. If the authority of your predecessor did not embrace the subjects in question, so as to bind his government, it necessarily follows, that the only credentials, yet presented by you being the same with those presented by him, give you no authority to bind it; and that the exhibition of a "full power" for that purpose, such as you doubtless are furnished with, is become an indispensable preliminary to further negotiation; or to speak more strictly, was required in the first instance by the view of the matter now disclosed by you. Negotiation without this preliminary would not only be a departure from the principle of equality which is the essential basis of it, but would moreover be a disregard of the precautions and of the self respect enjoined on the attention of the United States by the circumstances which have hitherto taken place.

I need scarcely add, that in the full power alluded to, as a preliminary to negotiation, is not intended to be included either the whole extent or any part of your instructions for the exercise of it. These of course, as you have justly remarked, remain subject to your own discretion.

I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations, to which I purposely limit myself, without adverting to your repetition

of a language implying a knowledge on the part of this government that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this government had no such knowledge, and that with such a knowledge no such arrangement would have been entered into, the view, which you have again presented of the subject, makes it my duty to apprize you, that such insinuations are inadmissible in the intercourse of a foreign minister with a government that understands what it owes to itself.

I have the honour to be, &c.

(*Signed*) R. SMITH.

Mr. Jackson to the Secretary of State.

WASHINGTON, NOV. 4, 1809.

SIR,

When I forwarded to my court your letter of the 19th ultimo, and the answer which I returned to it, I imagined, and I may add I hoped, that the retrospective correspondence, into which you thought it necessary to enter with me had been closed. You will, no doubt, recollect with what reluctance I acquiesced in your intimation on this head; not, as I believe has been seen, from any difficulty in maintaining the justice of the cause which is intrusted to me, but because I was, and still am, of opinion, that this sort of correspondence is not calculated to remove differences and sooth irritations of the most unfortunate tendency. As, however, I had no choice but to renounce, for the present, the hope of effectuating this desirable object, or to pursue it in the manner prescribed in your letter of the 9th ult. so I am now unwillingly compelled to enter upon the consideration of another letter from you under date of the 1st inst. which but too strongly confirms the opinion I before entertained.

Since, sir, it has been judged expedient to confine to a written form this important and interesting discussion; since that mode has been declared by you to be indispensable, I will first appeal to the written communications which

have passed between us; and I do this with the greater satisfaction, because I consider it to be the chief cause of the present remarkable state of things, that in speaking of engagements contracted or supposed to have been contracted between the two countries, *understandings* or *implied engagements*, have been allowed to take place of written compacts, and have been considered, in some instances, as having the same validity. It is furthermore necessary to place in the most unequivocal light a topick, which I observe to be constantly and prominently restated in your letters, notwithstanding the repeated, but as it should seem, fruitless endeavours used in mine, to clear it from the slightest shadow of obscurity.

You say "that it is understood that his Britannic majesty perseveres in requiring as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with the enemy's colonies, and also a permission to the British navy to aid in executing a law of Congress."

This same statement is contained in your letter of the 9th instant, and represented as the substance of what had fallen from me in our previous conferences. In my answer to that letter, I took the liberty of showing that such a supposition was erroneous, and I have looked in vain to my letter of the 23d, to find in it any suggestion of a similar tenour. I believe, therefore, that by reference to my two letters you will find, that the statement now again brought forward, is contained in neither of them, that it made no part of my previous conversations with you, and that I have in no way given room to suppose, that I ever made any such statement at all.

That before the orders in council can be revoked, their object must be obtained in some other way, is unquestionably true; but you may be assured, sir, that there is no wish whatever entertained in England, that the British navy should be employed in executing a law of Congress. If the proposal that was made upon that subject, and made as you now know, because it was believed to be acceptable

here, had been adopted, and had become a matter of compact, between the two countries, and thereby a part, not of the law of Congress, but of the publick law binding upon both parties, and which both would have had a common interest in seeing duly executed; in that case the agency of the British navy would not have had the invidious aspect, which is now attempted to be given to it. At present there is no engagement between the two countries, no laws of Congress which bear a reference to any such engagement, and consequently it cannot be wished to take any share whatever in the execution of those laws.

In regard to the colonial trade I need only observe, that all or nearly all the enemies colonies are blockaded by British squadrons, it cannot, therefore, be so much an object of solicitude as you imagine, to obtain the relinquishment of the trade of any country to those colonies. On the contrary you will find it stated in my letter of the 11th ultimo, to be a "matter of indifference whether the order in council (on this subject) be continued, or an arrangement by mutual consent substituted in its room."

When I informed you that the agreement concluded here in April last, had been framed in deviation from the instructions given for the occasion, my explanation was intended to apply to both parts of that agreement: that nothing, required by the most scrupulous accuracy, may be wanting, I now add, that the deviation consisted in not recording in the official document signed here, the abrogation of the President's proclamation of the 2d July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ultimo.

There is another motive for the disavowal of this part of the arrangement, considered to be so strong and so self evident upon the very face of the transaction, that I am not commanded to do more than indicate it in the manner I have already done. By this forbearance his majesty conceives that he is giving an additional pledge of his sincere disposition to maintain a good understanding with the United States.

I am somewhat at a loss to give a distinct reply to that part of your letter which relates to Mr. Erskine's authority to conclude with you in virtue of his general letter of credence, because I do not very distinctly understand the tendency of it. I never before heard it doubted that a full power was requisite to enable a minister to conclude a treaty; or that a mere general letter of credence was insufficient for that purpose.

If it were otherwise, and a government were in all cases to be bound by the act, however unauthorized, of an accredited minister, there would be no safety in the appointment of such a minister, and ratifications would be useless. No full power was given in the present case, because it was not a treaty, but the materials for forming a treaty, that was in contemplation.

In his despatch of the 23d January, Mr. Secretary Canning distinctly says to Mr. Erskine, "upon receiving through you, on the part of the American government, a distinct and official recognition of the three above mentioned conditions, his majesty will lose no time in sending to America a minister fully empowered to consign them to a formal and regular treaty."

This minister would of course, have been provided with a full power; but Mr. Erskine was to be guided by his instructions, and had the agreement concluded here been conformable to them, it would without doubt have been ratified by his majesty. I must beg your very particular attention to the circumstance that his majesty's ratification has been withheld, not because the agreement was concluded without a full power, but because it was altogether irreconcilable to the instructions on which it was professedly founded. The question of the full power was introduced by yourself to give weight, by a quotation from a highly respected author, to your complaint of the disavowal; in answer to which I observed that the quotation did not apply, as Mr. Erskine had no full power. Never did I imagine, or any where attempt to rest, the right of disavowal upon that circumstance: indubitably his agreement

would nevertheless have been ratified, had not the instructions, which in this case took the place of a full power, been violated.

I am surprised at the transition by which it appears to you that this part of the subject is connected with the authority empowering me to negotiate with you. It will not, I dare say, have escaped your recollection that I informed you at a very early period of our communications, that in addition to the usual credential letter, his majesty had been pleased to invest me with a full power, under the great seal of his kingdom, for the express purpose of concluding a treaty or convention. I well remember your testifying your satisfaction at the circumstance; and I have only now to add that I am ready, whenever it suits your convenience, to exchange my full power against that with which you shall be provided for the progress of our negotiation.

I am concerned, sir, to be obliged a second time to appeal to those principles of publick law, under the sanction and protection of which I was sent to this country. Where there is not freedom of communication in the form substituted for the more usual one of verbal discussion, there can be little useful intercourse between ministers; and one, at least, of the epithets which you have thought proper to apply to my last letter, is such as necessarily abridges that freedom. That any thing therein contained may be irrelevant to the subject, it is of course competent in you to endeavour to show; and as far as you succeed in so doing, in so far will my argument lose of its validity; but as to the propriety of my allusions, you must allow me to acknowledge only the decision of my own sovereign, whose commands I obey, and to whom alone I can consider myself responsible. Beyond this, it suffices that I do not deviate from the respect due to the government to which I am accredited.

You will find that in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and last

of all should I think of uttering an insinuation, where I was unable to substantiate a fact. To facts, such as I have become acquainted with them I have scrupulously adhered, and in so doing I must continue, whenever the good faith of his majesty's government is called in question, to vindicate its honour and dignity, in the manner that appears to me best calculated for that purpose.

I have the honour to be, &c.

(*Signed*) F. J. JACKSON.

The Secretary of State to Mr. Jackson.

DEPARTMENT OF STATE, NOV. 8, 1809.

SIR,

In my letter of the 19th ultimo, I stated to you that the declaration in your letter of the 11th, that the despatch from Mr. Canning to Mr. Erskine of the 23d January was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, was then for the first time made to this government. And it was added that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

In my letter of the 1st instant, adverting to the repetition in your letter of the 23d ultimo of a language implying a knowledge in this government that the instructions of your predecessor did not authorize the arrangement formed by him, an intimation was distinctly given to you that, after the explicit and peremptory asseveration that this government had not any such knowledge, and that with such a knowledge, such an arrangement would not have been made, no such insinuation could be admitted by this government.

Finding that in your reply of the 4th instant, you have used a language which cannot be understood but as reiterating and even aggravating the same gross insinuation,

it only remains in order to preclude opportunities which are thus abused, to inform you, that no further communications will be received from you, and that the necessity of this determination will, without delay, be made known to your government. In the mean time a ready attention will be given to any communications, affecting the interests of the two nations, through any other channel that may be substituted. I have the honour to be, &c.

(*Signed*) R. SMITH.

Mr. Oakley, his majesty's secretary of legation, is desired by Mr. Jackson to state to the secretary of state, that, as Mr. Jackson has been already once most grossly insulted by the inhabitants of the town of Hampton, in the unprovoked language of abuse held by them to several officers bearing the king's uniform, when those officers were themselves violently assaulted and put in imminent danger; he conceives it to be indispensable to the safety of himself, of the gentlemen attached to his mission, and of his family, during the remainder of their stay in the United States, to be provided with special passports or safeguards from the American government. This is the more necessary, since some of the newspapers of the United States are daily using language whose only tendency can be to excite the people to commit violence upon Mr. Jackson's person. In consequence he requests, that the under mentioned names may be inserted in the document to be furnished him.

Francis James Jackson, Mrs. Jackson, their three children, Charles Oakley, Esq. his majesty's secretary of legation, Mr. George Otley, private secretary. *Servants*—Robert Clavring, Francis Martin, William Attre, Charles Beecroft, Richard Lowe, John Price, John Lilly, James Wright, Amelia George, Mary Smith, Harriet Patten, Martha Wood, Francis Blackwell.

(This note was received at the department of state on the 11th of November.)

Mr. Oakley is desired, by Mr. Jackson, to say to the secretary of state:

That Mr. Jackson has seen with much regret, that facts which it has been his duty to state in his official correspondence, have been deemed by the American government to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with the minister charged by his sovereign with that negotiation so interesting to both nations, and on one point of which an answer has not even been returned to an official and written overture.

One of the facts alluded to has been admitted by the secretary of state himself, in his letter of the 19th October, viz. that the three conditions, forming the substance of Mr. Erskine's original instruction were submitted to him by that gentleman. The other, viz. that that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to Mr. Jackson by the instructions which he has himself received.

In stating these facts and in adhering to them, as his duty imperiously enjoined him to do, Mr. Jackson could not imagine that offence would be taken at it by the American government, as most certainly none could be intended on his part; but since he has been informed by the secretary of state that no farther communications will be received from him, he conceives that he has no alternative that is consistent with what is due to the king's dignity, but to withdraw altogether from the seat of the American government, and await the arrival of his majesty's commands upon the unlooked-for turn which has thus been given to his affairs in this country.

Mr. Jackson means to make New York the place of his residence.

Washington, Nov. 13, 1809.

The Secretary of State to Mr. Pinkney.

DEPARTMENT OF STATE, NOV. 23, 1809.

SIR,

My letters in the correspondence with Mr. Jackson, already transmitted to you, sufficiently evince the disappointment that was felt, on finding that he had not been charged to make to this government either the frank explanations or the liberal propositions which the occasion manifestly required. Instead of this obvious course of proceeding, it was in the outset perceived that his object was to bring us to resume the subjects of the arrangement of April, in a way that would imply that we were aware that the arrangement was not binding on his government, because made with a knowledge on our part, that Mr. Erskine had no authority to make it; and thus to convert the responsibility of his government for the disavowal, into a reproach on this for its conduct in the action disavowed.

In the first instance, it was deemed best rather to repel his observations argumentatively than to meet them as an offensive insinuation. This forbearance had not the expected effect of restraining him from a repetition of the offence. And even on his further insinuations, nothing more was done than to premonish him of the inadmissibility of so indecorous a course of proceeding. This also being without effect, nothing remained but the step finally taken. And there was the less hesitation in shutting the door to further opportunities for insulting insinuations, as the disclosures he had made, and the spirit of his discussions, had so entirely shut it to the hope of any favourable result from his mission.

I will not dwell on his reluctance to give up the uncertainties of verbal for the precision of written discussion; nor on the *manner* or the *time* of his denial that he had given any room at all for a statement, which, in order to guard against the misconceptions incident to verbal conferences, I had placed before him in writing, with a request that he would point out any inaccuracies, and to which he

did not *then* object, otherwise than by intimating, that he could not have made the statement *with the particular view which seemed to be supposed.* Nor will I dwell on the various instances in which partial or inconsistent views of the subject have taken place of its real merits. But it may not be amiss to make some observations on the correspondence, as it relates to the *justification of his government* in having disavowed the act of his predecessor.

With respect to the orders in council, the *ground* of the disavowal is the *difference* between the arrangement and the printed despatch of Mr. Canning to Mr. Erskine of the 23d of January. According to this despatch, then, the arrangement failed in three points.

1. In not relinquishing the trade of the United States with enemies' colonies.

With respect to this point, it is not necessary at this time to discuss the right to that trade. It is sufficient to remark, 1st. That as the trade is admitted to have become, in the view of Great Britain, of little practical importance, why has it been made a ground of the disavowal, and especially, as important considerations only could, upon principles of publick law, have justified a measure of so serious a character? 2. That as the colonial trade is a subject no wise connected either with the orders in council or with the affair of the Chesapeake, why has it been permitted to frustrate an arrangement relating to those subjects, and to those only? 3. That as this condition is alleged to have originated in a supposition that it would be agreeable to the American government, why has it been persisted in after the errour was made known by the representation of Mr. Erskine to his government, that neither this nor the other conditions of the despatch of the 23d January were attainable here?

2. Another point in the despatch, and not in the arrangement, is, that the British navy might capture our trade to ports prohibited by the United States.

This condition, too, appears to have had its origin in a mistake of your meaning in a conversation with Mr.

Canning, as noted by yourself, and in an inference thence deduced as to the disposition of this government. But this double mistake must have been brought to light in time to have been corrected in the new mission. In urging it, Mr. Canning has taken a ground forbidden by those principles of decorum which regulate and mark the proceedings of governments towards each other. In his despatch the condition is stated to be for the purpose of *securing the bona fide intention* of America to prevent her citizens from trading with France, and certain other powers; in other words, to secure a pledge to that effect against the *mala fide* intention of the United States. And this despatch, too, was authorized to be communicated *in extenso* to the government of which such language was used. Might it not have been reasonably expected, that such a condition and such observations would, at least on such an occasion, have been given up by a government willing to smooth the way to an amicable settlement of existing differences?

In his zeal to vindicate his government, Mr. Jackson too, has attempted a gloss on this most extraordinary idea of calling on a foreign sovereignty, not indeed to make laws for us, but what is equivalent in principle, to supply a supposed inability to execute them. He calls such an interposition of his government not an execution of the law of Congress, but of a compact binding as a publick law on both parties, and which both would have a common interest in seeing duly executed. On his own principles there ought to be a reciprocity, not only in the execution of the compact, but in the obligation and interest resulting from it. Besides, where there is a reciprocity in compacts between nations, touching attributes of sovereignty, there is always as much of sovereignty gained as is parted with, so that there be no loss nor indignity on either side.

3. The remaining point in the despatch not secured by the arrangement, is that which required that whilst our prohibitory laws should be repealed as to Great Britain, they should be left in force as to France and the powers adopting or acting under her decrees.

This is the condition which alone properly belongs to the subject, and it is to be remarked in the first place, that the British project, of which this condition makes a part, contemplated two things in their nature incompatible; one a repeal of the prohibitory acts as to Great Britain, without waiting for the conclusion of a regular treaty; the other a pledge or engagement for their continuance as to other powers. Now from the nature of our constitution, which in this particular ought to have been attended to by the British government, it is manifest, that the executive authority could have given no such pledge, that the continuance of the prohibitory acts, being a subject of legislative consideration, could not have been provided for until the meeting of the legislature, and that the condition could not therefore but have failed either in the immediate renewal of commerce with Great Britain, or in the immediate engagement that it should not be renewed with France.

The British government ought to have acquiesced in, and indeed ought to have been satisfied with, the attainment of the important object of an immediate repeal of our prohibitory laws and with the consideration that the other object, not immediately attainable, was unnecessary at the time, because the prohibition as to France was then in force, and because there was every reason to infer not only from this fact, but from the spirit of the communications made from time to time and from the overtures before submitted to the British government, that without a repeal of the French decrees, our prohibitory laws would be continued in force against France, and especially in the case of a repeal of the British orders, which would necessarily render a continuance of the French decrees doubly obnoxious.

But if on this head doubts could have been entertained, instead of rejecting the arrangement, ought not the repealing act on our part to have been met with a suspension at least of the orders in council, until it could have been seen whether the non-intercourse law, would or would not have been continued against France. Such a suspension would

not have given in any point of view more advantage to the United States than was given to Great Britain by the repeal, which had taken place on their part.

If this reasonable course could not have been substituted for the disavowal, why was not a final disavowal suspended with a proposition that the arrangement would be executed by Great Britain in the event of a compliance on the part of the United States with the condition required as to France?

I am not unaware you may be told that the non-intercourse law of the United States did not extend to Holland, though so intimately connected with France and so subservient to her decrees against neutral commerce.

It would not be improper on this occasion to observe, that this objection can be the less urged by Great Britain as she has herself never in her alleged retaliations adhered to the principle on which they were founded.

Thus she has from the date of them, until very lately, directed them against the American trade even to Russia, although Russia had never adopted the French decrees, nor otherwise violated our neutral trade with Great Britain. So in her order of April last, she has discriminated, not only between the countries devoted to France by the ties of blood, and other powers, but between Holland, Westphalia and Naples, in enforcing her prohibitory order against the first, and not against the two last. Whilst therefore she finds it expedient to make these distinctions, she ought to presume that we too may perceive equal propriety in the distinctions we have made.

But it may be of more importance here to compare the British order in council of April last with the arrangement of April made by Mr. Erskine. It will thence be seen how little is the real difference, and how trivial it is when compared to the extensive and serious consequences of the disavowal.

Under the order in council of April, all the ports of Europe, except France, including the kingdom of Italy and Holland with their dependencies, are opened to our commerce.

Under the arrangement of April combined with our act of non-intercourse, all the ports of Europe except France and her dependencies, including the kingdom of Italy would have been opened to our commerce.

The difference then is reduced merely to Holland, and that again is reduced to the difference between a direct trade to the ports of Holland and an indirect trade to Holland through the neighbouring ports of Tonningen, Hamburg, Bremen and Emden.

Now, as the injuring of the enemies of Great Britain is the only avowed object of her interdicting order against our trade, let a computation be made of the effect, which this difference between the order in council and the arrangement, could possibly have in producing such an injury. And then let the question be candidly answered whether, laying aside all considerations of right and justice, sufficient inducements could have been found in that result for rejecting the arrangement and for producing the consequent embarrassments as well to Great Britain as to the United States.

If it be necessary, as Mr. Jackson has stated, to set bounds to a spirit of encroachment and universal dominion, which would bend all things to its own standard, and to falsify by honourable and manly resistance an annunciation that all Europe is submitting by degrees, the effort must be feeble indeed, which is to be found in the inconvenience accruing to the formidable foe from the operation of this order in council, and especially when we combine with it the strange phenomenon of substituting for the lawful trade of the United States a trade of British subjects, contrary to the laws of the adverse party, and amounting, without a special license, in the eye of British law to high treason.

Thus much for the orders in council. What has taken place with respect to the case of the Chesapeake will equally engage your attention.

You will perceive that throughout the early stages of the correspondence this case was in some respects impro-

perly confounded with, in others improperly separated from, that of the orders in council; and particularly that pains had been taken by Mr. Jackson to substitute verbal and vague observations, on the disavowal of this part of the arrangement, for an explicit and formal explanation, such as was obviously due. It will be seen also that when finally brought to the point, he referred for a justification of the disavowal to the departure of Mr. Erskine from his instructions, without *showing* what those instructions were, and to allusions to an expression in the arrangement, without giving to his meaning the distinctness prerequisite to a just reply.

It appears, however, that he lays great stress on the proposal enclosed in his letter of the 27th of October, as at once indicating the departure of Mr. Erskine, from his instructions, and as containing the conditions on the basis of which he was ready to enter on an adjustment. And from a note from the secretary of the British legation, it appears that he has complained of not having received an answer to this proposal, as he had before complained that no answer had been given to his verbal disclosures on this head in his interviews with me.

With respect to his intimations in conversation, as they were preceded by no proper assignment of the reasons for not having executed the original adjustment, it cannot be necessary to remark that no such notice, as he wished to obtain, could with any sort of propriety have been taken of them.

With respect to his written project, it will suffice to remark;

1st. That besides his reluctant and indistinct explanation of the disavowal of the original adjustment, he did not present his proposal until he had made such progress in his offensive insinuation as made it proper to wait the issue of the reply about to be given to it, and that this issue had necessarily put a stop to further communications.

2d. That although he had given us to understand that the ordinary credentials, such alone as he had delivered,

could not bind his government in such a case, his proposal had neither been preceded by, nor accompanied with, the exhibition of other commission or full power. Nor indeed has he ever given sufficient reason to suppose that he had any such full power to exhibit in relation to this particular case.—It is true that in his letter of the 23d October, he has stated an authority *eventually* to conclude *a convention between the two countries*. Without adverting to the ambiguity of the term *eventually*, with the mark of emphasis attached to it, and to other uncertainties in the phraseology, it is clear that the authority referred to, whatever it may be, is derived from instructions *subject to his own discretion*, and not from a patent commission, such as might be properly called for. It is true also that in his letter of the 4th of November subsequent to his proposal, he says he was possessed of a full power, in due form, for the express purpose of concluding a treaty or convention. But it still remains uncertain, whether by the treaty or convention to which it related, was not meant an *eventual* or provisional treaty on the general relations between the two countries, without any reference to the case of the Chesapeake. Certain it is that the British government, in former like cases, as will be seen by the adjustment of that part of the affair at Nootka Sound which is analogous to this case, did not consider any such distinct full power as necessary; nor is there the slightest ground for supposing that Mr. Erskine, although confessedly instructed to adjust this very case of the Chesapeake, was furnished with any authority distinct from his credential letter. That Mr. Jackson has any such commission is the less to be supposed, as it is but barely possible, that possessing it, he should not on some occasion, or in some form, have used a language susceptible of no possible doubt on this point.

But, proceeding to the proposal itself, it is to be kept in mind that the conditions forming its basis, are the very conditions for the deviating from which Mr. Erskine's adjustment was disavowed. Mr. Jackson, if not on others, is on this point explicit.—"I now add," says he, "that the

deviation consisted in not recording in the official document signed here the abrogation of the President's proclamation of the 2d July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ult."

Considering then the conditions in the proposal as an ultimatum, in what light are we compelled to view such an attempt to repair the outrage committed on the frigate Chesapeake, and to heal the disappointment produced by a disavowal of a previous equitable reparation.

It is impossible on such an occasion not to recall the circumstances which constituted the character of the outrage, to which such an ultimatum is now applied. A national ship, proceeding on an important service, was watched by a superior naval force, enjoying at the time the hospitality of our ports, was followed, and scarcely out of our waters when she was, after an insulting summons, attacked in a hostile manner; the ship so injured as to require expensive repairs, the expedition frustrated, a number of the crew killed and wounded, several carried into captivity, and one of them put to death under a military sentence. The three seamen, though American citizens, and therefore on every supposition detained as wrongfully, as the ship would have been detained, have notwithstanding now remained in captivity between two and three years; and it may be added, after it has long ceased to be denied that they are American citizens.

Under these circumstances we are called upon to ransom the captives;

1st. By acknowledging that a precautionary proclamation, justified by events preceding the outrage, by the outrage itself, and by what immediately followed it, was unjustifiable, and that a repeal of it was properly a condition precedent to a reparation for the outrage. And this requisition is repeated too, after such an acknowledgment had been uniformly asserted by this government to be utterly inadmissible, and what is particularly remarkable, at a time when the proclamation, as is well understood, was

no longer in force. The occasion obviously invited a silent assumption of the existing fact, and this would have excluded the difficulty heretofore found to be insuperable.

2d. By throwing into complete oblivion the conduct of the officer answerable for the murderous transaction, with a knowledge too on our part, that instead of being punished or even brought to trial, he has been honoured by his government with a new and more important command.

3. By admitting a right on the part of Great Britain to claim a discharge from our service of deserters generally, and particularly of her natural born subjects, without excepting such as had been naturalized in due form under the laws of the United States.

It has not been explained, whether it was meant, as the universality of the term "deserters" would import, to include American citizens, who might have left the British service. But what possible consideration could have induced the British government to expect, that the United States could admit a principle that would deprive our naturalized citizens of the legal privileges, which they hold in common with their native fellow citizens. The British government, less than any other, ought to have made such a proposition, because it not only, like others, naturalizes aliens, but, in relation to the United States, has even refused to discharge from the British service native citizens of the United States, involuntarily detained. If an American seaman has resided in Great Britain, or has married therein, or has accepted a bounty in her naval service, his discharge therefrom, on the regular application to the British government, has been invariably refused by its board of admiralty. This I state on the authority of the official reports made to this department. It is therefore truly astonishing, that, with a knowledge of these facts, such a pretension should have been advanced at all, but above all, that it should have been made a *sine qua non*, to an act of plain justice already so long delayed. This is the more to be regretted, as the omen does not favour the belief, we

would willingly cherish, that no predetermination exists in the councils of his Britannic majesty irreconcilable to an amicable arrangement of an affair which, affecting so deeply the honour of the United States, must precede a general regulation of the mutual interests of the two countries.

After the correspondence with Mr. Jackson was terminated, two notes, of which copies are herewith sent to you, were presented to me, in the name and by the hand of Mr. Oakley, the British secretary of legation.

The first requested a document, having the effect of a special passport or safeguard to Mr. Jackson and his family, during their stay in the United States. As the laws of this country allow an unobstructed passage through every part of it, and with the law of nations equally in force, protect publick ministers and their families in all their privileges, such an application was regarded as somewhat singular. There was no hesitation, however, in furnishing a certificate of his publick character, and to be used in any mode he might choose. But what surprised most was, the reasons assigned for the application. The insult he alluded to was then for the first time brought to the knowledge of this government. It had, indeed, been among the rumours of the day, that some unbecoming scene had taken place at Norfolk or Hampton, between some officers belonging to the Africaine and some of the inhabitants, and that it originated in the indiscretion of the former. No attention having been called for, and no inquiry made, the truth of the case is unknown. But it was never supposed that Mr. Jackson himself, who was on board the frigate, had been personally insulted; nor is it yet perceived in what way he considers it as having happened. It is needless to remark, that any representation on the subject would have instantly received every proper attention.

Another ground on which a protection was asked for, is the supposed tendency of the language of our newspapers to excite popular violence on Mr. Jackson's person. Had he been longer and better acquainted with the habits and spirit of the American people, he would probably never

have entertained an apprehension of that sort. If he meant to animadvert on the free language of the newspapers, he might justly be reminded that our laws, as those of his own country, set bounds to that freedom; that the freedom of British prints, however great with respect to publick characters of the United States, has never been a topick of complaint, and that supposing the latitude of the American press to exceed that of Great Britain, the difference is infinitely less in this respect between the two, than between the British press and that of the other nations of Europe.

The second note seems to be essentially intended as a justification of the conduct of Mr. Jackson, in that part of his correspondence which had given umbrage. If he intended it as a conciliatory advance, he ought not to have preceded it by a demand of passports, nor by the spirit or the manner in which that demand was made. He ought in fact, if such was his object, to have substituted an explanation in the place of his reply to my premonitory letter. But whether he had one or other, or both of these objects in view, it was necessary for him to have done more than is attempted in this paper.

It was never objected to him, that he had stated it as a fact, that the three propositions in question had been submitted to me by Mr. Erskine, nor that he stated it, as made known to him by the instructions of Mr. Canning; that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived to conclude an arrangement on the matter to which it related. The objection was, that a knowledge of this *restriction* of the authority of Mr. Erskine was imputed to this government, and the repetition of the imputation even after it had been peremptorily disclaimed. This was so gross an attack on the honour and veracity of this government as to forbid all further communications from him. Care was nevertheless taken, at the same time, to leave the door open for such as might be made through any other channel, however little the probability that any satisfactory

communications would be received through any channel here.

To the other enclosures I add a printed copy of a paper purporting to be a circular letter from Mr. Jackson to the British consuls in the United States. The paper speaks for itself. As its contents entirely correspond with the paper last referred to, as they were unnecessary for the ostensible object of the letter, which was to make known Mr. Jackson's change of residence, and as the paper was at once put into publick circulation, it can only be regarded as a virtual address to the American people of a representation previously addressed to their government; a procedure which cannot fail to be seen in its true light by his sovereign.

The observations, to which so much extent has been given in this letter, with those contained in the correspondence with Mr. Jackson will make you fully acquainted with the conduct and the character he has developed; with the necessity of the step taken in refusing further communications with him, and with the grounds on which the President instructs you to request that he may be immediately recalled. You are particularly instructed, at the same time, in making those communications, to do it in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundation of justice, of friendship, and of mutual interest. I have the honour to be, &c.

(*Signed*) R. SMITH.

General Armstrong to Mr. Smith, Secretary of State.

PARIS, SEPT. 4, 1809.

SIR,

THE letter of which I send you a copy, was received during my absence, and detained in Paris till my return. The note promised in it has not yet been received. Mr. Warden informs me, that the council of prizes have been

ordered to suspend their proceedings with regard to our vessels. I have the honour to be, &c.

(*Signed*) JOHN ARMSTRONG.

The Hon. Robert Smith, Secretary of State.

[TRANSLATION.]

Count Champagny to General Armstrong, dated Vienna, August 8, 1809.

SIR,

You have desired that one of the American vessels, which are in the ports of France, might be authorized to depart for the United States with your despatches. I have taken the orders of his majesty on the subject of this demand, and his majesty, always disposed to facilitate your communications with your government, has permitted the departure of the vessel which you shall designate. I informed the ministers of the marine and of the finances of this disposition, requesting them to ensure the execution of it so soon as you shall have made known to them the name of the vessel and the port from which she is to depart.

I have the honour, sir, to apprize you, that I shall forthwith address to you a note by order of his majesty, on the actual situation of our relations with the United States. Please to profit by the departure of the vessel to make this known to the Federal government, and permit me also to send by that conveyance, some despatches to the minister plenipotentiary of his majesty to the United States.

Accept, sir, the assurances, &c. &c.

(*Signed*) CHAMPAGNY.

Extracts of a Letter from Gen. Armstrong to Mr. Smith, Secretary of State, dated Paris, Sept. 16, 1809.

"I received on the 6th instant, on my return from Holland, two notes from count Champagny, copies of which I have the honour to enclose. In one of these you will find an exposition of the principles which have govern-

ed, and which will continue to govern the conduct of his majesty with regard to neutral commerce. To this, which was offered as a difinitive answer to our propositions, I have believed that any reply, before I had received the farther instructions of the President, would have been premature."

"Mr. Laurence arrived at L'Orient, on the 9th, and Mr. Hazewell at Paris, with your despatch of the 12th of August last, on the 13th instant. I immediately communicated to count Champagny the President's proclamation interdicting anew all commercial intercourse between the United States and Great Britain, and gave such other explanations as the case appeared to require."

[TRANSLATION.]

Extract of a Letter from count Champagny to General Armstrong, dated Altenburg, August 22, 1809.

"I HAVE the honour to address to you the subjoined note, which his majesty has ordered me to send to you, and which I have announced in my last despatch. If France does not do at this time all that the United States of America can desire, your government will be able to see, that neither prejudice nor animosity influences its conduct; that it is the effect of its attachment to principles which the Americans, more than any other people, are interested in supporting, and of the necessity of reprisals which circumstances impose. The emperour will consider as an happy event, that which shall enable him to contribute to the prosperity of America, in leaving to its commerce all the liberty and all the extension which can render it flourishing."

[TRANSLATION.]

Official Note from Count Champagny to Gen. Armstrong.

ALTENBURG, AUG. 22, 1809.

SIR,

HIS majesty, the emperour, apprized that you are to send a vessel to America, has ordered me to make known

to you the invariable principles which have regulated, and which will regulate his conduct on the great question of neutrals.

France admits the principle that the flag covers the merchandise.

A merchant vessel, sailing with all the necessary papers (avec les expeditions) from its government, is a floating colony. To do violence to such a vessel, by visits, by searches and by other acts of an arbitrary authority, is to violate the territory of a colony: this is to infringe on the independence of its government. The seas do not belong to any nation; they are the common property of mankind, and the domain of all.

Enemy merchant vessels belonging to individuals ought to be respected. Individuals who do not fight, ought not to be made prisoners of war. In all her conquests, France has respected private property. The warehouses and the shops have remained with their proprietors. They have been free to dispose of their merchandise as they pleased, and at this moment a great number (convois) of waggons loaded principally with cotton, pass through the French armies, through Austria and Germany, on their way to such places as commerce has directed.

If France had adopted the usages of maritime war, all the merchandise of the continent of Europe would have been accumulated in France, and would have become a source of immense wealth. Such would have been, without doubt, the pretensions of the English, if they had had on the land that superiority which they have obtained at sea. We should have seen, as in the times of barbarism, the vanquished sold as slaves, and their lands parcelled out. Mercantile avidity would have usurped every thing; and the return to barbarous usages would have been the work of the government of a nation that has improved the arts and civilization. That government is not ignorant of the injustice of its maritime code. But what signifies to it, what is just? It only considers what is useful to itself.

Such are the principles of the emperour on the usages

and the rights of maritime war. When France shall have acquired a marine proportioned to the extent of her coasts and her population, the emperour will put more and more in practice these maxims, and will use his endeavours to render the adoption of them general.

The right, or rather the pretension of blockading, by a proclamation, rivers and coasts, is as monstrous (revoltante) as it is absurd. A right cannot be derived from the will or the caprice of one of the interested parties, but ought to be derived from the nature of things themselves. A place is not truly blockaded until it is invested by land and by sea; it is blockaded to prevent it from receiving the succours which might retard its surrender. It is only then that the right of preventing neutral vessels from entering it exists: for the place so attached, is in danger of being taken, and the dominion of it is doubtful, and contested by the master of the town and him who blockades or besieges it. Hence the right of preventing even neutrals from having access to it.

The sovereignty and the independence of the flag, are, like the sovereignty and the independence of the territory, the property of all neutrals. A state may give itself to another, may destroy the act of its independence, may change its sovereign; but the rights of sovereignty are indivisible and unalienable, none can give up any part of them.

England has placed France in a state of blockade. The emperour, by his decree of Berlin, has declared the Britannic isles in a state of blockade. The first measure kept neutral vessels at a distance from France, the second has interdicted to them England.

By her orders in council of the 11th November, 1807, England has laid a toll on neutral vessels, and has obliged them to pass through her ports before they should go to the places of their destination. By a decree of the 17th of December, of the same year, the emperour has declared vessels, whose flag shall have been violated, degraded, trod-

den under foot, as no longer belonging to their nation, (denationalize.)

To screen itself from the acts of violence, with which this state of things threatened its commerce, America laid an embargo in her ports; and although France, who had done nothing more than resort to reprisals, saw her interests and the interests of her colonies wounded by this measure, nevertheless the emperour applauded this generous determination of renouncing all commerce, rather than acknowledge the dominion (domination) of the tyrants of the seas. The embargo has been raised; a system of exclusion has been substituted for it. The continental powers leagued against England, make a common cause; they aim at the same object; they will reap the same advantages; they ought also to run the same risks. The ports of Holland, of the Elbe, of the Weser, of Italy and of Spain, will not enjoy (ne jouiront) any advantages of which those of France may be deprived. They will both, (les uns et les autres) be either open or shut at the same time, to the commerce of which they may be the object.

Thus, sir, France acknowledges in principle the liberty of the commerce of neutrals and the independence of maritime powers. She has respected them until the moment when the maritime tyranny of England (which respected nothing) and the arbitrary acts of its government, have forced her to measures of reprisal, which she has adopted, but with reluctance.

Let England revoke her declarations of blockade against France;—France will revoke her decree of blockade against England. Let England revoke her orders in council of the 11th November, 1807;—the decree of Milan will fall of itself. American commerce will then have regained all its liberty, and it will be sure of finding favour and protection in the ports of France. But it is for the United States by their firmness to bring on these happy results. Can a nation that wishes to remain free and sovereign, even balance between some temporary interests, and the

great interests of its independence, and the maintenance of its honour, of its sovereignty, and of its dignity?

Please to accept, sir, the assurances of my high consideration.

(*Signed*) CHAMPAGNY.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE HOUSE OF REPRESENTATIVES. DEC. 12, 1809.

ACCORDING to the request of the house of representatives, expressed in their resolution of the 11th inst. I now lay before them a printed copy of a paper purporting to be a circular letter from Mr. Jackson to the British consuls in the United States, as received in a gazette at the department of state; and also, a printed paper, received in a letter from our minister in London, purporting to be a copy of a despatch from Mr. Canning to Mr. Erskine of the twenty-third of January last.

JAMES MADISON.

[CIRCULAR.]

WASHINGTON, NOV. 13, 1809.

SIR,

I HAVE to inform you, with much regret, that the facts which it has been my duty to state in my official correspondence with Mr. Smith, have been deemed by the President of the United States to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with me, as the minister charged with that negotiation, so interesting to both nations, and on one most material point of which an answer has not even been returned to an official and written overture.

One of the facts alluded to has been admitted by the secretary of state himself, in his letter to me of the 19th October, viz. That the three conditions, forming the substance of Mr. Erskine's original instruction, were submitted to him by that gentleman. The other, viz. That that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to me by the instructions which I have myself received.

In stating these facts and in adhering to them, as my duty imperiously enjoined me to do, in order to repel the frequent charges of ill faith which have been made against his majesty's government, I could not imagine that offence would be taken at it by the American government, as most certainly none could be intended on my part; and this view of the subject has been made known to Mr. Smith. But as I am informed by him that no further communication will be received from me, I conceive that I have no alternative left which is consistent with the king's dignity, but to withdraw altogether from this city, and await elsewhere the arrival of his majesty's commands upon the unlooked for turn which has thus been given to his affairs in this country.

I mean in the interval to make New York the place of my residence, where you will henceforward please direct your communications to me, as I shall be accompanied by every member of his majesty's mission. I am, &c.

(*Signed*) F. J. JACKSON.

Copy of a despatch from Mr. Secretary Canning to the Hon. D. M. Erskine, dated Foreign Office, January 23, 1809.

SIR,

If there really exist in those individuals who are to have a leading share in the new administration of the United States, that disposition to come to a complete and cordial understanding with Great Britain, of which you have received from them such positive assurances, in meeting

that disposition, it would be useless and unprofitable to recur to a recapitulation of the causes from which the differences between the two governments have arisen, or of the arguments already so often repeated in support of that system of retaliation to which his majesty has unwillingly had recourse.

That system his majesty must unquestionably continue to maintain, unless the object of it can be otherwise accomplished.

But after the profession on the part of so many of the leading members of the government of the United States, of a sincere desire to contribute to that object in a manner which should render the continuance of the system adopted by the British government unnecessary, it is thought right that a fair opportunity should be afforded to the American government to explain its meaning, and to give proof of its sincerity.

The extension of the interdiction of the American harbours to the ships of war of France as well as of Great Britain, is, as stated in my former despatch, an acceptable symptom of a system of impartiality towards both belligerents; the first that has been publickly manifested by the American government.

The like extension of the non-importation act to other belligerents is equally proper in this view. These measures remove those preliminary objections, which must otherwise have precluded any useful or amicable discussion.

In this state of things, it is possible for Great Britain to entertain propositions, which while such manifest partiality was shown to her enemies, were not consistent either with her dignity or her interest.

From the report of your conversations with Mr. Madison, Mr. Gallatin and Mr. Smith, it appears:

1. That the American government is prepared, in the event of his majesty's consenting to withdraw the orders in council of January and November, 1807, to withdraw contemporaneously on its part the interdiction of its harbours

to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain; leaving them in force with respect to France, and the powers which adopt or act under her decrees.

2. (What is of the utmost importance, as precluding a new source of misunderstanding, which might arise after the adjustment of the other questions,) That America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemy's colonies, from which she was excluded during peace.

3. Great Britain, for the purpose of securing the operation of the embargo, and of the *bona fide* intention of America to prevent her citizens from trading with France, and the powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these powers; without which security for the observance of the embargo, the raising of it nominally with respect to Great Britain alone, would, in fact, raise it with respect to all the world.

On these conditions his majesty would consent to withdraw the orders in council of January and November, 1807, so far as respects America.

As the first and second of these conditions are the suggestions of the persons in authority in America to you, and as Mr. Pinkney has recently (but for the first time) expressed to me his opinion, that there will be no indisposition on the part of his government, to the enforcement by the naval power of Great Britain of the regulations of America with respect to France, and the countries to which these regulations continue to apply, but that his government was itself aware, that without such enforcement those regulations must be altogether nugatory; I flatter myself that there will be no difficulty in obtaining a distinct and official recognition of these conditions from the American government.

For this purpose, you are at liberty to communicate this despatch *in extenso* to the American government.

Upon receiving through you, on the part of the American government, a distinct and official recognition of the three above mentioned conditions, his majesty will lose no time in sending to America a minister fully empowered to consign them to a formal and regular treaty.

As, however, it is possible that the delay which must intervene before the actual conclusion of a treaty may appear to the American government to deprive this arrangement of part of its benefits, I am to authorize you, if the American government should be desirous of acting upon the agreement, before it is reduced into a regular form, (either by the immediate repeal of the embargo, and the other acts in question, or by engaging to repeal them on a particular day) to assure the American government of his majesty's readiness to meet such a disposition in the manner best calculated to give it immediate effect.

Upon the receipt here of an official note, containing an engagement for the adoption by the American government of the three conditions above specified, his majesty will be prepared, on the faith of such engagement, either immediately (if the repeal shall have been immediate in America) or on any day specified by the American government for that repeal, reciprocally to recall the orders in council, without waiting for the conclusion of the treaty; and you are authorized, in the circumstances herein described, to make such reciprocal engagement on his majesty's behalf.

I am, &c.

(*Signed*) GEORGE CANNING.

MESSAGE

TO THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES. DECEMBER 16, 1809.

AGREEABLY to the request expressed in the resolution of the thirteenth instant, I lay before the House extracts

from the correspondence of the minister plenipotentiary of the United States at London.

JAMES MADISON.

Brief account of an unofficial conversation between Mr. Canning and Mr. Pinkney, on the 18th of January, 1809, continued on the 22d of the same month. [*Transmitted by Mr. Pinkney to the Secretary of State.*]

I DINED at Mr. Canning's with the *corps diplomatique* on the 18th January. Before dinner he came up to me, and entering into conversation, adverted to a report which he said had reached him that the American ministers (here and in France) were about to be recalled. I replied, that I was not aware that such a step had been resolved upon. He then took me aside, and observed that, according to his view of the late proceedings of Congress, the resolutions of the house of representatives, in committee of the whole, appeared to be calculated, if passed into a law, to remove the impediments to arrangement with the United States, on the subjects of the orders in council and the Chesapeake, by taking away the discrimination between Great Britain and France in the exclusion of vessels of war from American ports. He added that it was another favourable circumstance that the non-importation system, which seemed to be in contemplation, was to be applied equally to both parties, instead of affecting as heretofore Great Britain alone.

I proposed to Mr. Canning, that I should call on him in the course of a day or two for the purpose of a free communication upon what he had suggested. To this he readily assented; and it was settled that I should see him on the Sunday following the (22d) at 12 o'clock, at his own house.

In the interview of the 22d, Mr. Canning's impressions appeared to be in all respects the same with those which he had mentioned on the 18th; and I said every thing which I thought consistent with candour and discretion to confirm him in his disposition to seek the re-establishment of good understanding with us, and especially to see in the

expected act of Congress, (if it should pass) an opening for reconciliation.

It was of some importance to turn their attention here, without loss of time, to the manner of any proceeding that might be in their contemplation. It seemed that the resolutions of the house of representatives, if enacted into a law, might render it proper, if not indispensable, that the affair of the Chesapeake should be settled at the same time with the business of the orders and embargo, and this I understood to be Mr. Canning's opinion and wish. It followed that the whole matter ought to be settled at Washington, and, as this was moreover desirable on various other grounds, I suggested that it would be well (in case a special mission did not meet their approbation) that the necessary powers should be sent to Mr. Erskine.

In the course of the conversation, Mr. Canning proposed several questions relative to our late proposal: the principal were the two following.

1. In case they should wish either through me or through Mr. Erskine, to meet us upon the basis of our late overture, in what way was the effectual operation of our embargo as to France, &c. after it should be taken off as to Great Britain, to be secured? It was evident, he said, that if we should do no more than refuse clearances for the ports of France, &c. or prohibit under penalties voyages to such ports, the effect which my letter of the 23d of August, and my published instructions, proposed to have in view, would not be produced; for that vessels, although cleared for British ports, might, when once out, go to France instead of coming here; and this would in fact be so, (whatever the penalties which the American laws might denounce against offenders) could not, he imagined, be doubted; and he therefore presumed that the government of the United States would not, after it had itself declared a commerce with France, &c. illegal, and its citizens, who should engage in it, delinquents, and after having given to Great Britain by compact an interest in the strict observation of the prohibition, complain if the naval force of this country should assist in preventing such a commerce.

2. He asked whether there would be any objection to making the repeal of the British orders and the American embargo contemporaneous? He seemed to consider this as indispensable. Nothing could be less admissible, he said, than that Great Britain, after rescinding her orders, should for any time, however short, be left subject to the embargo in common with France, whose decrees were subsisting, with a view to an experiment upon France, or with any other view. The United States could not upon their own principles apply the embargo to this country one moment after its orders were removed, or decline after that event to apply it exclusively to France, and the powers connected with her in system.

I took occasion towards the close of our conversation to mention the recent appointment of admiral Berkley to the Lisbon station. Mr. Canning said, that whatever might be their inclination to consult the feelings of the American government on that subject, it was impossible for the admiralty to resist the claim of that officer to be employed (no other objection existing against him) after such a lapse of time since his return from Halifax, without bringing him to a court martial. The usage of the navy was in this respect different from that of the army. But I understood Mr. Canning to say that he might still be brought to a court martial: although I did not understand him to say that this would be the case. He said that admiral Berkley, in what he had done, had acted wholly without authority. I did not propose to enter into any discussion upon the subject, and therefore contented myself with speaking of the appointment as unfortunate.

In both of these conversations, Mr. Canning's language and manner were in the highest degree conciliatory.

Extract of a Letter from William Pinkney, Esq. minister plenipotentiary of the United States in London, to the Secretary of State, dated London, May 28, 1809.

"In the interview which took place (on May 23) Mr. Canning said, that the British minister had acted in his

late negotiation and engagements with you, not only without authority, but in direct opposition to the most precise instructions; that the instructions actually given to him had been founded on his own letters received here in January, in which were set forth the particulars of several conversations that had passed between him and Mr. Madison, Mr. Gallatin and yourself, but especially the two last; that it appeared from these conversations that, in the opinion of the persons with whom they were held, the government of the United States would be willing that Great Britain should consider the measures then contemplated by Congress, relative to non-intercourse, and the indiscriminate exclusion of belligerent vessels from our waters, as presenting an opening for the renewal of amicable discussions with this country; that it would be disposed, in the case of the Chesapeake, to receive as sufficient reparation, in addition to the prompt disavowal and recall of admiral Berkley, the restoration of the seamen forcibly taken out of that vessel; that, on the subject of the orders in council, it would have no objection in case they were revoked as regarded the United States, to repeal the embargo and non-intercourse laws as to Great Britain, and to continue them as to France and Holland and such other countries as should have in force maritime edicts similar to those of France, so long as those edicts remained; that it would allow it to be understood that the British cruisers might capture American vessels attempting to violate the embargo and non-intercourse laws so modified; that it would even agree to abandon during the present war, all trade with enemies' colonies from which we were excluded in peace; that it was prepared to regulate by treaty, the commercial relations of the two countries, upon the basis of the most favoured nation, or upon that of reciprocal equality; and, in a word, that it was extremely desirous of re-establishing the most perfect good understanding and the most friendly connection with Great Britain.

Mr. Canning proceeded to inform me that in conse-

quence of these representations, some parts of which he said I had myself confirmed in two conversations in January, he had framed and transmitted to Mr. Erskine two sets of instructions, dated the 23d of that month, but not forwarded till some time afterwards, the first of which related to the business of the Chesapeake, and the second to the orders in council, and the proposed commercial arrangements. These instructions, together with the passages in Mr. Erskine's letter, written I believe in December last, which contained the above mentioned representations and some other details which I ought not to repeat, Mr. Canning read to me.

"Although Mr. Canning made me acquainted with Mr. Erskine's instructions, he did not in any degree apprize me of the explanations, transmitted by that minister, of the grounds and motives of his proceedings; and I could not be sure, from any thing which Mr. Canning had stated to me, that I had been made to understand the exact nature and character of the transaction. I believed, therefore, that it behooved me to be particularly careful how I received what Mr. Canning thought fit to disclose to me. In looking back upon the past I discovered no inducements to a less cautious course. I remembered that Mr. Canning had not told me in our conversations in January (one of which occurred the day before the date of his letter to Mr. Erskine) that he intended to confide to him such powers as he must then have been in the act of preparing, or indeed any powers at all. That in our conferences in April, after the arrival of the *Pacifick*, the same reserve was practised. That in the last of those conferences Mr. Canning admitted only (and that too upon being pressed by me) that *in the business of the Chesapeake*, he "had written to Mr. Erskine, in compliance with what he understood to be my wish, that the settlement of that affair should be transferred to Washington," that even then the time when he had done so was not mentioned; and that as to the orders in council, I was suffered to suppose that negotiation in America had not been authorized. It occurred to

me, moreover, that, as it had already been decided that Mr. Erskine was to be disavowed, and, as that decision had been made publick through the board of trade, I could not hope to prevent that disavowal, and that with my imperfect knowledge of facts, it might be worse than useless by laboured discussion to attempt it.

"With these impressions I could do little more than manifest my concern that conciliatory arrangements between the American secretary of state and his majesty's accredited minister at Washington, acting in consequence and professing to act in pursuance of orders from his court, were not likely to have that effect which was naturally to be expected from them.

"I undertook, however, to declare with confidence that the American government had met Mr. Erskine's proposals in a just and friendly spirit, and with a sincere desire that, while its own honour and essential interests were fairly consulted and maintained, a liberal respect should be shown for those of Great Britain."

Extract of a Letter from Mr. Pinkney to the Secretary of State, dated London, June 6, 1809.

Mr. Canning tells me that the conversations detailed in Mr. Erskine's letters did not, as I had supposed, suggest that the government of the United States would allow it to be understood that British cruisers might stop American vessels attempting to violate the embargo and non-intercourse, continuing as to France, &c. after they should be withdrawn as to Great Britain. They suggested that the United States would *side with* the power revoking its edicts against the power persevering. This Mr. Canning says he considered (although he did not so insist upon it in the recapitulation contained in his instructions to Mr. Erskine,) as comprehending what I thought he had represented the actual suggestion to be, and what he supposed I had said to him in an informal conversation, at his house in Briton street, on the 22d of January, in an answer to one of his inquiries.

It will, I am sure, occur to you, as the fact is, that the little which I may have thrown out upon that occasion did not look to the admission of Mr. Canning's object into any stipulation between the two countries, and that I viewed it only as a consequence that might, and would, if France persisted in her unjust decrees, grow out of arrangements similar to those offered by us in August last.

Having no longer any authority (as Mr. Canning knew) to speak officially upon that or any other point connected with the orders in council, and being desirous that this government should propose negotiation at Washington, as well concerning the orders as the affair of the Chesapeake, I avoided as much as possible explanations upon details which would be best managed at home by the department of state, and endeavoured to speak upon what Mr. Canning proposed to me, in such a manner as that without justifying unsuitable expectations on his part, or forgetting what was due to the honour of my own government, I might contribute to produce an effort here towards friendly adjustment.

Extract of a Letter from Mr. Pinkney to Mr. Smith, dated London, June 9, 1809.

"Mr. Erskine's instructions concerning the orders in council having been laid before the house of commons, are now printed. You will find them in the newspaper enclosed.

"It is not improbable that when Mr. Canning read these instructions to me, I inferred from the manner in which the *three* points stated in the 5th, 6th and 7th paragraphs, are introduced and connected, that they were *all* considered as suggested by Mr. Erskine's "report of his conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith:" whether I was led by any other cause into the mistake of supposing that the *third* (as well as the first and second) was so suggested, I am not sure; and it is not very material.

"Mr. Canning's misconception of some informal obser-

vations from me in January last, has been in part mentioned in my letter of the 6th instant. But the published instructions show, what I had not collected from hearing them read, that he understood me to have stated "that the American government was itself aware that without an enforcement, by the naval power of Great Britain, of the regulations of America with respect to France, those regulations must be altogether nugatory." It cannot be necessary to inform you that in this, as in the other particulars alluded to in my last letter, I have been misapprehended.

"I ought to mention that the strong and direct charge against the American government, of "manifest partiality" to France, introduced, without any qualification or management of expression, into a paper which Mr. Erskine was authorized to communicate *in extenso* to you, did not strike me when that paper was read to me by Mr. Canning."

Extract of a Letter from Mr. Pinkney to the Secretary of State, dated June 23, 1809.

"I HAD an interview yesterday with Mr. Canning.

"In conversing upon the first of the conditions, upon the obtaining of which Mr. Erskine was to promise the repeal of the British orders in council, and a special mission, I collected from what was said by Mr. Canning, that the exemption of *Holland* from the effect of our embargo and non-intercourse would not have been much objected to by the British government, if the government of the United States had been willing to concede the first condition, subject to that exemption. Mr. Canning observed that the expedient of an actual blockade of Holland had occurred to them as being capable of meeting that exemption; but that Mr. Erskine had obtained no pledge, express or implied, or in any form, that we would enforce our non-intercourse system against *France* and her dependencies; that our actual system would, if not re-enacted or continued as to France, terminate with the present session of Congress;

that for aught that appeared to the contrary in your correspondence with Mr. Erskine, or in the President's proclamation, the embargo and non-intercourse laws might be suffered without any breach of faith to expire, or might even be repealed immediately, notwithstanding the perseverance of France in her Berlin and other edicts; and that Mr. Erskine had in truth secured nothing more, as the consideration of the recall of the orders in council, than the renewal of American intercourse with Great Britain.

Upon the second of the conditions mentioned in Mr. Erskine's instructions I made several remarks. I stated that it had no necessary connection with the principal subject; that it had lost its importance to Great Britain by the reduction of almost all the colonies of her enemies; that Batavia was understood not to be effected by it; that it could not apply to Guadaloupe (the only other unconquered colony) since it was admitted that we were not excluded from a trade with Guadaloupe in peace; that I did not know what the government of the United States would upon sufficient inducements, consent to do upon this point; but that it could scarcely be expected to give the implied sanction, which this condition called upon it to give, to the rule of the war of 1756, without any equivalent or reciprocal stipulation whatsoever. Mr. Canning admitted that the second condition had no necessary connection with the orders in council, and he intimated that they would have been content to leave the subject of it to future discussion and arrangement. He added that this condition was inserted in Mr. Erskine's instructions, because it had appeared from his own report of conversations with official persons at Washington, that there would be no difficulty in agreeing to it.

Upon the third condition I said a very few words. I restated what I had thrown out upon the matter of it in an informal conversation in January, and expressed my regret that it should have been misapprehended. Mr. Canning immediately said that he was himself of opinion that the idea upon which that condition turns could not well find its

way into a stipulation; that he had nevertheless believed it proper to propose the condition to the United States; that he should have been satisfied with the rejection of it; and that the consequence would have been that they should have intercepted the commerce to which it referred, if any such commerce should be attempted."

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, COMMUNICATING A REPORT OF THE SECRETARY OF STATE, RELATIVE TO SEIZURE OF SHIPS AND MERCHANDISE UNDER THE AUTHORITY OF DENMARK. JAN. 12, 1810.

I COMMUNICATE to the House of Representatives, the report of the Secretary of State on the subject of their resolution of the 6th of December last.

JAMES MADISON.

REPORT.

THE Secretary of State respectfully reports to the President of the United States, agreeably to a resolution of the House of Representatives of the 6th December, 1809, that the enclosed papers, from A to E, contain, in substance, the information which has been received at this office, respecting seizures, captures and condemnations of ships and merchandise of the citizens of the United States, under the authority of the government of Denmark:

A. A memorial of sundry Americans at Christiansand, to the President of the United States:

B. Translation of an extract of a letter from Peter Isaacson, lately appointed consul of the United States, at Christiansand, to the President of the United States, dated August 11, 1809:

C. List of American vessels, which have been carried into the ports of Denmark and Norway, received from Mr. Saabye, consul of the United States at Copenhagen:

D. Extract from a letter of Mr. Saabye, to the Secretary of State, dated August 1, 1809:

E. Resolutions and memorial of merchants of Philadelphia.

The Secretary also respectfully reports to the President, that information had been received at this office, within the period embraced by the resolution referred to, of the capture of American vessels by those of Great Britain, under various pretexts, viz: for dealing by bills of exchange in an enemy's country for colonial produce, violating the British orders in council of January and November, 1807; for infringing the blockades of Martinique; for being engaged in the Vera Cruz and colonial carrying trade, and of the seizure of some American vessels at Curracoa, at Ceylon, and in China, for reasons not distinctly stated. It is to be observed, however, that the papers in this office afford but a very imperfect account of the British captures of American property, and it is for this reason that a detail is not attempted in this report; more particularly, as no official accounts have been received, on which to ground one.

The Secretary begs leave likewise to state to the President, that within the period embraced by the resolution, property to a considerable amount, belonging to citizens of the United States, has been captured and seized by the French, for violations of the Berlin and Milan decrees, and under other pretexts: that in some instances the merchant vessels of the United States have been burnt at sea by French cruisers, and in others, the indemnity of the vessels and property has been purchased by the means of bills of exchange, drawn by the captains of the American vessels upon their owners, at a rate imposed by the captors. The accompanying statement of American vessels, condemned by the imperial council of prizes, at Paris, from the 18th December, 1806, to the 26th May, 1809, received

from Mr. Warden, acting as consul of the United States, at Paris, more particularly explains the grounds of French captures.

It is to be observed, however, as to many of these acts, that they can no otherwise be considered as having been done under the authority of those governments, than that the vessels committing them were under their flags.

Respectfully submitted.

R. SMITH.

Department of State, Jan. 12, 1810.

(A.)

MEMORIAL

FROM SUNDRY AMERICANS AT CHRISTIANSAND, JULY 19, 1809.

To his excellency James Madison, Esq. President of the United States of North America:

THE memorial of the undersigned captains and supercargoes, citizens of the United States, respectfully sheweth:

That in the prosecution of our several voyages, undertaken with the sanction of our government, and consequently, (as we are bound to believe) not only conformably to its laws, but also fair and legal, as they respect the treaties existing between the United States and the court of Denmark; and although we had severally attached to our ships, all those official documents required by our laws, and were at the time of our sailing from the United States, issued by the several collectors, and other equally constituted authorities, for the purpose of proving the national character of our vessels and cargoes; that nevertheless, we have been (whilst alike unsuspicious of insult or injury, and unprepared to resist either,) forcibly intercepted in the prosecution of our voyages, and by the privateers of Norway, acting under commissions from his majesty the king of Denmark, and brought into the several ports of this kingdom, to the great injury of the citizens of the United States, whose property we represent, and in violation of

those rights, due to neutrals in general; but more especially to us, whose government uniformly has respected with the most sacred fidelity the rights of others.

Your memorialists beg leave to call your excellency's attention to the annexed list, by which you will observe, that vessels, with cargoes to the amount of dollars, exclusive of freight and charges, have been detained here, some nearly three months, the others less, as will appear from said list; and that several have been condemned under pretexts, the most degrading to our national flag and character, and apparently the most destitute either of reason or justice. As individuals, we have experienced a degree of incivility the more distressing, as we have seen the captain of a vessel bearing the English flag, an avowed enemy of the country, when captured and brought in here, meet with treatment in every respect different, and even respectful. In some cases where the most trifling inaccuracy could not be discovered in our ship's papers, we have found them when out of our possession, mutilated and defaced. In some instances, our people have been tempted with bribes, and threatened with punishments to induce their giving false testimony against our property. In those cases which have been adjudicated, all the proceedings are in the Danish language, (with which your memorialists are unacquainted) and we have been invariably refused, either a copy of those proceedings generally, or even of the particular charges against us, until what they call the trial, was over, and the judgment passed, by which the property of citizens of the United States was condemned. It is not the least of our present misfortunes, that in addition to the detention and condemnation of our property, our several crews are thrown upon us for support, without any other provision made for them by this government, than that of their entering into its service on board of their national gun boats, or privateers, at the same time that our ship's provisions are in almost many cases, and in other altogether exhausted, and the impoverished state of the coun-

try, such, that a supply for the approaching winter is at least precarious, if not absolutely unobtainable.

Your memorialists beg leave to lament, that in the kingdom of Norway, the United States have not either a consul or commercial agent, to whom, in circumstances so novel, unprecedented and distressing, we could apply, either for pecuniary aid, advice or protection, and that our distance from Copenhagen is so great, and the communication in consequence of the war with Sweden and England, so precarious and uncertain, that Mr. Saabye, our consul at that court, has it not in his power, even if he were disposed, to render us that aid which we require under these circumstances; and because Mr. Saabye, although well apprized of our situation, has not taken those steps which were certainly in his power to alleviate them. We have thought it our duty, and for our interest to solicit the friendship and protection of Peter Isaacksen, Esq. of this place, and to which he has generously acceded; in consequence of which, we have appointed him, by an instrument, (a copy of which is annexed) agent for the United States in this place, until your excellency's pleasure is known; and we cannot omit this opportunity of recommending this gentleman as possessing that honour, talent, integrity and independence, both of sentiment and fortune, which in a distinguished manner qualifies him for your excellency's appointment as consul for the United States, in the kingdom of Norway.

Your memorialists have further to represent, that the apparent breach of hospitality and faith, on the part of the court of Denmark, of which we now complain, is assigned by those constituted powers with whom they have had an opportunity of conversing, to circumstances which your memorialists are fearful are too true, namely, that many of our citizens have, especially during eighteen months last past, been engaged in a commerce, violating alike the laws of the United States, and those of the belligerents, and which has been carried on under false papers procured in England, and under the mask of the American flag. Of

the truth of which allegation, your memorialists have to their sorrow, seen one proof in the case of the ship Romulus, of Boston, which was brought into this port, and very properly condemned in last May. It is further alleged, and we think it not improbable, that latterly the English have built their ships as much as possible to resemble the Americans, and with them have been carrying on an extensive trade, especially to Archangel and the Baltic, under the American flag, and with American papers, of English manufacture. How far these unwarrantable frauds may have been practised, and how they are in future to be prevented, will doubtless engross your excellency's attention, and the more especially, as this is made a ground of suspicion, operating against all American vessels, and on the strength of which, (we are led to believe) those condemnations which have taken place here, are almost exclusively founded.

Your memorialists further represent, that all the ports from Bayonne to the Weser, (as we understand,) are in a state of the most rigorous blockade, from which your memorialists infer, that as the activity of the privateers here, evidently increases with the growing extent of their depredations on our unprotected property, that a great proportion of those ships, which were bound for, but cannot enter the ports of Holland, while seeking for a place of security, and a market in Sweden and the Baltic, will add alarmingly to our unfortunate number, and increase the amount of property here, (already much too great, for the faint hopes your memorialists entertain of its recovery,) to a sum not merely affecting the interests of individuals, but such as will be alarmingly felt in the treasury of the United States.

Your memorialists would further represent, that in all the cases of condemnation which have taken place here, the captain representing the property has appealed to the high court of admiralty at Christianna, and as a strong demonstration of the expectation of the people of Norway, and the disposition of its government, in all those cases

where the court have declared the property neutral, the voyage fair, and the capture of course illegal. and although the injured American has nevertheless been adjudged to pay the captor from four hundred to six hundred rix dollars, for proving his innocence and neutrality, yet the captors have also appealed to the same high court, without being compelled by law to give us bonds for the consequence of such further detention.

Your memorialists doubt not, nor can your excellency doubt, after an examination of the accompanied document, that every American vessel in Norway, together with those who may be expected, will share in the same fate; but when the appeals will be ultimately tried, whether in one month, or in one year, or per adventure the next century, your memorialists have not with all their anxiety to ascertain a fact so much involving their interests, been able to learn.

Finally, your memorialists beg leave to assure your excellency, that unwilling to trouble or alarm our government, until every means in our power had been tried, which could tend to render this very unpleasant alternative unnecessary, we have applied repeatedly to our consul at Copenhagen, who answers that he feels for our situation, but could not render us any assistance; but observed that the higher courts of Norway would not fail to do us justice. To the laws of Norway we have appealed, but with the hopes already expressed in this memorial. Thus situated, we forbear to colour a simple representation, of itself so gloomy and degrading, that except in this single instance, will at all apply to the history of the civilized world, to the citizens of any free, brave, and powerful nation. Strangers therefore in a foreign country, dispossessed of our property, in the power of a people, who have arrested our vessels and cargoes, who, (if they know) do not appear to respect those salutary laws recognised for ages, and necessary for the safe and honourable intercourse of mankind, with upwards of four hundred of our seamen, depending on us for protection and bread, without having the ability

to extend to them the one, or procure for them the other. We supplicate most earnestly and respectfully your excellency's interposition, in such a manner as your wisdom shall approve; and we do this, with the fullest confidence that such measures as your excellency may adopt for the recovery of our property, the security of our rights, and the vindication of our national honour, will be as distinguished for their promptitude, firmness and decision, as the treatment of which we complain is remarkable for its novelty, severity and injustice.

We beg your excellency to accept the assurance of our respectful and high consideration.

Phinehas Drinkwater, George M'Lellan, William Leech, jun. John L. Lewis, Robert Thompson, William Fountain, Henry Skinner, Thomas Harding, James Jacobs, John Campbell, Samuel C. Chamberlain, Ebenezer James, Ward Blackler, James N. Martin, Isaac Foster, Jacob Spafford, Reuben S. Randall, J. Mun, Jonathan Cook, John Becket, jun. Joseph Foster, jun. John How, per order, Robert Rogers, Wm. Adgate, M. Hutchinson, jun. Joseph Eck, Francis Joseph, Francis S. Coxe, Benjamin H. Kintzing, Samuel B. Ingersoll, Isaac Stone, Charles L. Smith, jun. Abijah Neriney, jun. Miers Fisher, jun. George Davis, John Clemm, Jeremy Robinson, Royal Bond, Dedrick Heydorn, per order, George D. Thorndike, Wm. F. Graham, Nathaniel West, jun. Walter Wilson.

Christiansand, July 19, 1809.

(B.)

Translation of an extract of a letter from Peter Isaacsen to the President of the United States, dated August 11, 1809.

"At a time at which nearly all the European powers are engaged in war, and not the colours of a single nation are respected; at which privateering, molestation and capturing have become as customary as they in times of peace were considered as against the laws of nations, and abhor-

red by all civilized states; at which commerce and navigation are every where interrupted, or rather to say, destroyed; at such a time it has happened, after the navigation of the United States of America was renewed, that several American merchant ships, bound from thence to the north of Europe, have been detained on their voyage by Norway privateers in the north seas, and carried into the ports of Norway, where at the present time are already the number of twenty-six of such vessels, partly here at Christiansand, and partly in the neighbouring harbours.

Under these circumstances, the captains of those vessels, as well as the supercargoes, have found it expedient to choose a general commissioner, who was able to direct their business here, give them advice and assistance during their stay here, and, in the whole, who was able to fulfil all the functions of a consul. I am unanimously elected by them, being a merchant and Danish citizen at this place.

Persuaded of the most perfect neutrality of the United States of America with all the belligerent powers, and that its government always has kept a friendly connection and understanding with my sovereign, the king of Denmark, and his dominions, and under the supposition, that American subjects neither can or will permit themselves any actions contrary to the positive laws, and which are not consistent with the most perfect neutrality. In consequence of this, I found myself in duty bound not to deny them that assistance, of which they stand so much in need, in a country where they were altogether strangers, and deprived of the disposal both of their vessels and cargoes.

These motives have determined myself, for the first, to annex the functions of a consul and commissioner, which has enabled me to my great satisfaction to find, that my expectations with regard to the lawful business of the American subjects and the justice of their cases have not been entirely unfounded, and in behalf of this I do myself the honour to give the following submissive account.

Twenty-six vessels have been brought in here, of which

eighteen have already undergone trial. Of these, eight have been cleared, and ten have been condemned as lawful prizes, for reasons that in the ship's papers have been found suspicious circumstances, viz:

The erasing or altering of the date in the sea letter, the want of the signature of the Secretary of State in the sea letter, and that they not altogether have been conformable with each other, &c. &c.

And further it has been observed, that among the several ships' documents has every where been wanting the charter party, which, according to the regulations for privateers, are ordered to be found on board of every neutral vessel, which want has occasioned, that the court of prizes has awarded the privateers to the expenses of the captures.

Those different sentences have produced the appeals to the high court of admiralty at Christiana, established there for the kingdom of Norway, either by the captains whose vessels have been condemned, or by the privateers against those vessels which have been liberated, which procedures will occasion further delay, expenses and loss for the captured.

I hope that the most, if not all the cases appealed to the high court of admiralty, will be decided in favour of the American captains; in consequence of this I have proposed to the government, if the privateers who have appealed, being mostly but poor pilots and fishermen, ought not to be ordered to give security for the unnecessary delay and loss and damages derived from it, and which the American captains further might have to suffer, or if this security was not given, then it then might be permitted them immediately to proceed on their voyages—but I have received neither answer or resolution thereupon.

In the present situation of things exists consequently no remedy to lighten the burden of the captains, or procure clearances for their ships and cargoes, but to wait for the success of the expected resolution upon my proposal, or for the event of the sentence of the high court of admiralty in appealed cases—in the mean time I shall not fail to pro-

cure the cases of the captains pleaded, and in the whole observe their interest as well as possible.

Permit me further to make the following observations:—

In the same manner as the treacherous behaviour of England towards Denmark has occasioned the war between these two powers, in the same manner has our government considered privateering as one of the most useful means to hurt the enemy in his navigation and commerce. At the same time it gives a material interest to the privateers themselves, especially in a period at which our own navigation and commerce lay at rest, and the mariners have no other means of getting their living—consequently the privateers can in fact not be blamed to make use of their privileges and permission, by every opportunity, and I might dare to say, that the capturing of neutral vessels, according to political principles, might be excused, having had several instances, that vessels of such nations, which conforming to the famous Berlin decree, ought not to sail for England, or to be in any commercial connection with it, nevertheless have by the help of fictitious and counterfeited papers, favoured the commerce of that country, especially since the commencement of war between Denmark and England, and thus have made themselves the enemies of Denmark, by carrying those articles to England, of which it stood in absolute want to keep up the war.

It is therefore nearly adopted as a common principle, not to respect the colours of any nation on the ocean, under the supposition, that as well the colours as the documents might be fictitious and false, and that the cargoes might be, direct or indirect, destined for the enemies of Denmark. This principle has been the more justified by having found at the examinations of several captured vessels, that they were not only provided with a double set of papers, but sailed besides under British licenses."

(C.) [Received in Mr. Saaby's letter of October 16, 1809.]

AMERICAN SHIPS, which have been carried in by Privateers.

NAMES OF VESSELS.	MASTERS' NAMES.	TO WHAT PORT.	REMARKS.
Ship Rebecca,	Captain Nimmo,	In Copenhagen,	Condemned in the prize court; appealed.
Commerce,	Otis,	ditto,	Condemned in prize court; has not appealed.
Harriet,	Weeks,	ditto,	Cleared in both courts.
Hebe,	Ogle,	ditto,	Cleared in the prize court.
Henry,	Harris,	ditto,	ditto.
Two Friends,	Livingston,	ditto,	Condemned and appealed.
Spencer,	M'Carthy,	ditto,	Cleared in the prize court.
Ann Louisa,	J. O. Roch,	ditto,	Condemned and appealed.
Helvetius,	Barcet,	ditto,	Cleared in the prize court; appealed.
Aurora,	Masters,	ditto,	ditto, ditto.
Hesper,	Cushing,	ditto,	Cleared in the prize court.
Antelope,	Hopkins,	ditto,	ditto.
Ann,	Donaldson,	ditto,	ditto.
James,	Coffin,	ditto,	Condemned and appealed.
Concordia,	Johnson,	ditto,	Not decided.
Alexander,	Hodge,	In Aulburg and Fladstraud,	Cleared and appealed.
Mary Ann,	Martin,	ditto,	ditto, ditto.
Washington,	Story,	ditto,	ditto, ditto.
	Swain,	ditto,	Condemned.
David Gelston,	Wm. Booth,	ditto,	Cleared and appealed.
Mary,	M. Hale,	ditto	Cleared and sailed.
Hetty,	John Shore,	ditto,	Cleared, but appealed.
Susan,	Henly,	ditto,	Cleared without being brought before court.
North America,	Drinkwater,	In Christiansand, in Norway,	Condemned, but appealed.

Jane,	M'Lellan,	In Christiansand, in Norway,	Condemned, but appealed.
Herschell,	Lewis,	ditto,	Cleared.
Suwarrow,	Leach,	ditto,	Condemned and appealed.
Raphael,	Joseph,	ditto,	Cleared.
Endeavour,	Lovett,	ditto,	ditto.
Pacific,	Becket,	ditto,	Condemned and appealed.
Doris,	Chamberlain,	ditto,	Cleared.
Industry,	Cook,	ditto,	Condemned and appealed.
Packett,	Petrick,	ditto,	Cleared.
Edward Henry,	Forster,	ditto,	Condemned and appealed.
Ann,	How,	ditto,	ditto, ditto.
Washington,	James,	ditto,	Cleared.
Good Friends,	Thompson,	ditto,	Condemned and appealed.
Atlantic,	Fountain,	ditto,	ditto, ditto.
Elizabeth,	Campbell,	ditto,	Cleared.
Commerce,	Hanner,	ditto,	Condemned and appealed.
United States,	Harding,	ditto,	Cleared.
Commerce,	Ingersoll,	ditto,	ditto.
Bellan,	Jacobs,	ditto,	Condemned and appealed.
Livia,	Martin,	ditto,	Cleared.
Chesapeake,	Mann,	ditto,	ditto.
Wonolamot,	Blackler,	ditto,	Condemned and appealed.
Washington,	Randall,	ditto,	Cleared.
Byfield,	Forster,	ditto,	ditto.
James,	Shatford,	ditto,	Condemned and appealed.
Topaz,	Herrick,	ditto,	ditto, ditto.
America,	Stone,	ditto,	ditto, ditto.

(D.)

Extract from a Letter of Mr. Saabye to the Secretary of State, dated August 1, 1809.

"I AM fortunate enough to be able to inform you of a royal order given to day, by which all privateers are ordered back into port, and all privateering prohibited, except about Helegoland."

(E.)

Resolutions of several Merchants, &c. of Philadelphia, respecting Danish captures.

PHILADELPHIA, OCT. 19, 1809.

AT a meeting of the Merchants and Underwriters of this city, interested in the vessels and property captured in Europe by Danish cruisers, held this day at the Merchants' Coffee House, the following resolutions were unanimously agreed to:

Resolved, That a committee be appointed to prepare a representation to the President of the United States, of the facts and circumstances attending the late enormous and alarming depredations committed by Danish cruisers on the property of citizens of the United States, lawfully navigating the high seas, and actually destined for ports in Denmark, Sweden or Russia:

And of the vexatious proceedings and unjust condemnation of such property, in courts acting under the authority of Denmark; not only in violation of the law of nations, (in the maintenance and defence of which, that government has hitherto been distinguished), but in contempt of those documents and evidences of neutrality, which have hitherto been deemed sufficient:

Respectfully requesting that such measures may be speedily adopted as the wisdom of the executive may devise, and the magnitude and emergency of the case require.

Resolved, That the committee be instructed to collect all the testimony which the nature of the case may require, or the parties interested may furnish, together with satisfactory evidences of the neutrality of the property, and the other documents which accompanied it in each case, with the nature and amount of their several claims:

That memorial be signed by the parties interested, and together with a certified copy of the proceedings of this meeting (signed by the chairman), be forwarded without delay to the Secretary of State, to be laid before the President:

That the chairman, T. Fitzsimons, W. Jones, Henry Pratt, Stephen Girard, Charles Pleasants, be a committee.

THOMAS FITZSIMONS, *Chairman.*

TO JAMES MADISON,

PRESIDENT OF THE UNITED STATES.

The Memorial of the subscribers, Merchants and Underwriters of the city of Philadelphia, respectfully represents;

That during the present year, and since the expiration of the embargo laws, your memorialists have fitted out and loaded or insured several vessels, with valuable cargoes, destined for the ports of countries in amity with the United States, and not known to be under blockade or any restriction that would render the admission of American vessels hazardous; that some of those vessels having departed from the United States previous to the proclamation which took off the restriction from the ports of the united kingdoms and their dependencies, took clearances *for a permitted port in Europe*, but were actually destined for a port in Russia, or some one in Denmark or Sweden.

That notwithstanding their being furnished with all the documents and evidences of the neutral character of both vessels and cargoes, in every instance in which they have been met with by Danish cruisers, they have been captured

and sent into the ports under the dominion of that nation, and with their cargoes have been condemned, (with very few exceptions), and even when acquitted, the sentences have been appealed from, so as to prevent a restitution of the property, and at the last advices the whole was detained to abide the sentence of the superior tribunals. That from the destruction or dilapidations of the papers by the captors, as well as from other circumstances, your memorialists have too much reason to apprehend an unfavourable issue of the cases, and that if the property should be distributed, no subsequent determination would enable them to recover its value, the captors being (as they understand) generally without property or responsibility.

That besides the vessels and cargoes enumerated and specified, in the schedule transmitted by your memorialists to the department of state, there is certain information that a great number of vessels belonging to other ports of the United States, have been captured, and are under like circumstances with those of your memorialists, and likely to share the same fate.

Under these circumstances, and considering the magnitude of the object—Your memorialists presume to hope for the interference of government in their behalf, by despatching a publick vessel, and a person to represent the case to the Danish government, or such other measures as the wisdom of the President may deem proper, which with the proofs ready to be adduced by your memorialists, warrant the expectation that the property would be restored.

Pratt and Kentzing, Wm. Jones, Charles Pleasants, Godfrey Haga, John Evans, Edward Carrell, Murdoch and Duffield, James Tatem, Savage and Dugan, Charles Macalesters, William Bell, Howell and Pleasants, Wm. W. Smith, Simon Gratz and Co. John Claxton, James Smith and Co. James Oldden, jun. Thomas Fitzsimons, president of the Delaware insurance company, Samuel W. Fisher, president of the Philadelphia insurance company, David Lewis, president of the Phœnix insurance company, Philadelphia, John Inskeep, president of the insurance company,

North America, James S. Cox, president of the insurance company of the state of Pennsylvania, George Latimer, president of the Union insurance company of Philadelphia, John Leamy, president of the Marine insurance company of Philadelphia, Samuel Yorke, Israel Pleasants, president of the United States insurance company, Stephen Girard, Joseph Carson, for Lancaster and Susq. insurance company, James Paul, Wm. & Jona. Leedom, Eyre and Massey, James S. Ritchie, Samuel Israel, George Smith, Smith and Helmuth, John Bohley, Jacob Girard Koch, James Latimer, Daniel Man, Martin Dubs, Samuel Clarkson, J. Peterson, Thomas L. Moore, Samuel Keith, James C. Fisher, Gustavus and Hugh Colhoun, W. J. Miller, Thomas Ketland, Matthew H. Bevan, Daniel W. Coxe, Otto and Shawhidff, Andrew Bayard, John Coulter, Thos. Biddle and John Wharton, attorneys for James M'Murtrie, J. Bell, for himself, Wm. Bell, and Jos. Watson, Ebenezer Large and Son, Wilson Hunt, Samuel S. Veacock, Thomas Wotherspoon, Wm. M'Faden, John R. Shubert, James Barclay, Stephen Dutilh, Joseph Smith, Samuel Clarke, John Bernard, Montgomery and Newbold, James Finnisk, Thomas Clifford.

Statement of American vessels condemned by the Imperial Council of Prizes at Paris, from the 18th of December, 1806, to the 26th of May, 1809.

Names of the Vessels and Captains.	Names of the ports to which they belonged.	Names of the Proprietors, and their Places of Residence.	Date of the decision.	Motive for condemnation.
1. The Ranger, captain Benjamin Hooper,	Boston,	Samuel Dulany, of Boston,	Sept. 18, 1806,	Vessel restored, the cargo confiscated, being English property.
2. The Fame, captain Zadock Crowell, seized at Bordeaux, by the custom house officers, the 8th of August, 1807,	New York.... This vessel wore the American flag, she was claimed by Mr. Constantine of Bordeaux,	Henry Turner, of New York,	Jan. 29,	This vessel carried brandies from Charante to Bordeaux, after the decree of the 21st Nov. 1806.
3. The Victory, captain Caleb Hopkins, seized by the custom house officers, at Cherburg,	Portsmouth,	Edmund Roberts, of Portsmouth,	April 27,	Came from England, condemned for a false declaration.
4. The Aurora, captain Wm. Bowen, taken the 24th of January, 1808, by the corsair, the Incomparable,	Baltimore,	Peter Laverry, and others,	June 8,	No certificate of origin; retaken from the English by the Incomparable.
5. The Rising Sun, captain Laborn Burt, taken the 7th of December, 1807, by the French corsair, the Jena, who conducted her to Amsterdam,	Plymouth,		June 8,	Conducted to Plymouth in England, by an English corsair, retaken by the Jena, confiscated, one twelfth to the profit of the state, the other to the owners of the corsair.
6. The America, captain John Proctor, taken the 5th of February, 1808, by the corsair, the Victoire,	Kennebunk,		June 8,	Conducted to Portsmouth in England, the 27th Dec. 1807. No certificate of origin.
7. The George, captain Bray, taken the 13th of January, 1808, by the Precurseur, who carried her to Passage,	Newburyport,		June 8,	Visited the 23d Dec. 1807, by an English frigate.

Names of the Vessels and Captains.	Names of the ports to which they belonged.	Names of the Proprietors, and their places of Residence.	Date of the decision.	Motive for condemnation.
8. The Mars, capt. Charles Henry, taken the 4th of February, 1808, by the corsair, the L'Active,	New York,	Wm. Henry, of New York,	June 15, 1808,	Opposition to the decrees of the 21st Nov. 1806, and of Dec. 1807. Destination for London.
9. The Vengeance, capt. Ward Chipman, taken the 7th of Jan. 1808, by the corsair, the Precurseur,	Salem,	Wm. Gray, of Salem,	June 15,	No certificate of origin. Visited the 30th Dec. 1807, by an English frigate.
10. The Grace, capt. Lingei, taken the 27th of Jan. 1808, by the corsair, the Cosmopoli,	Boston,	Wm. Stackpole and Moses Wheeler, of Boston,	July 6,	Visited on the 29th Dec. 1807, her papers thrown overboard.
11. The Cados, capt. Bunker, taken the 2d of Feb. 1808, by the gun boat Jalouse, who conducted her to Marseilles,	New York,	Joseph Seard, of New York,	July 6,	Visited by an English frigate before Toulon, the 16th Jan. 1808, and taken the 2d of Feb. following.
12. The Fame, capt. Nathaniel Small,	Boston,	Oliver Keating, of Boston,	July 6,	Visited by an English frigate the 19th Jan. 1807, and taken the 20th Jan. by the Jalouse gun boat, who conducted her to Marseilles.
13. The Brothers, capt. Fisk, taken the 27th of Dec. 1807, by the Revenge, who conducted her to Calais,	Bath,	Abner Dingney, of Dunburg, and Nath. Ames, of Winslow,	July 6,	Destination for London.
14. The George, capt. Jon. Eveleth, conducted to Conquet,	Newburyport,	John Woodwell and David Coffyn, of Newburyport,	July 6,	Visited the 28th Jan. 1808; taken by an English frigate the 31st of said month, and taken the 20th Feb. by the corsair, the Speculation.
15. The Tarantula, captain John Riley, jun. taken the 2d of Feb. 1808, by the corsair, the Peu de Formille, conducted to Boulogne,	Portsmouth,	Joseph Chase and Theodore Chase, of Portsmouth,	July 6,	Conducted to Gibraltar the 20th Dec. 1807, by an English corsair, and left this port the 7th Jan. Visited the 12th of same month and also the 29th by an English frigate.

16. The James Adams, capt. Elijah Barry, taken 31st Dec. 1808, by the corsair Sauvage, conducted to Dunkirk,	This vessel had no register, she had a certificate dated at Philadelphia, the 5th of Nov. 1807,	Messieurs Adams, Loughing & Cooper, of Philadelphia,	July 13, 1808,	Visited the 24th Dec. 1807. Touched at England. No certificate of origin.
17. The Mercury, capt. Watson, taken the 28th Jan. 1808, by the corsair, the Rodeur, conducted to Dieppe,	New York,		July 13,	Visited the 8th of Jan. 1808. No certificate of origin. Touched at England in May, 1807.
18. The Pauline, capt. John Clarke, taken the 7th Jan. 1808, by the corsair, the Requir,	Baltimore— Pretended to be American, claimed by Bareu of Morlaix,	Charles Wingman,	July 23,	Opposition to the decree of the 21st Nov. 1806, and to that of 17th Dec 1807; correspondence with England intercepted
19. The Juno, capt. John Fisher, taken by the corsair, the Beum of Martinique,	Charleston— A provisional register dated the 4th of Feb. 1806, captain Wm Malcolm,	Wm. Malcolm sold the said ship to capt. Fisher.before a notary at London, May 17, 1806,	August 3,	English property; cargo of slaves.
20. The Charlotte, capt. Jonathan Lowden, taken the 28th of Jan. 1808, by the corsair Revenge, conducted to Ostend,	Frenchman's Bay,	John Peters of Surry, county of Hancock,	August 18,	Left Plymouth the 23d Jan. 1808, destined for Gothenburg.
21. The Mary, capt. Samuel Rice, taken the 12th March, 1808, by the corsair L'Aigle, conducted to Malaga,	Portsmouth, state of Massachusetts,	Wm. Dennech and Wm. Badger,	August 81,	Opposition to the decrees of the 21st Nov. 1806, and of the 23d Nov. and 17th Dec. 1807, coming from England.
22. The Hope, capt. John Drady, taken the 18th of Jan. 1808, by the corsair La Mouche, conducted to La Spizzia,	Philadelphia, without register, certificate from the custom house,	Edward Tilgham of Philadelphia,	Sept. 7,	No certificate of origin.
23. The Mercury, capt. Bradfort, taken the 3d of Feb. 1808, by the corsair the Josephine, and conducted to Alicante,	Plymouth,	Robert Roberts, of Plymouth,	Sept. 21,	On leaving Gibraltar visited by several English frigates.

Names of the Vessels and Captains:	Names of the ports to which they belonged.	Names of the Proprietors, and their places of residence.	Date of the decision.	Motive for condemnation.
24. The Hibernia, capt. Appleton, taken the 31st of Jan. 1808, by the corsair Josephine, conducted to Alicante,	Boston,		Sept. 21, 1808,	Visited the 24th Jan. 1808.
25. The Steward, capt. Thompson, conducted to Alicante,		Capt. Thompson,	Dec. 2,	Infringement of the imperial decrees of blockade.
26. The May Flower, capt. John Buntin, taken by the corsair Prince Jerome and conducted to Alicante,		George Rogers, Joseph Cutter and John Wood, of Newburyport,	Dec. 2,	Came in ballast from London.
27. The Ranger, capt. Chestum, taken by the Prince Jerome, and conducted to Alicante,		Nicholas J. Ridgley, Alex. McDonnel, and Samuel Shelburne, of Baltim.	Dec. 2,	Opposition to the imperial decrees of blockade.
28. The Anne, capt. Charles Bradfort, conducted to Alicante, by the Pr. Jerome,	Alexandria,	Capt. Bradfort, Chas. Bradfort, Robert and Jas. Hooe and John Muncaster, of Alexandria,	Dec. 2,	Came from England.
29. The Edward, capt. Samuel Lewis, seized at the Isle of Re,			Dec. 15,	Opposition to the imperial decrees of blockade.
30. The Two Marys, capt. Riley, conducted to Belle Isle,			Dec. 15,	Visited by English ships.
31. The Science, capt. Howard,			Nov.	
32. The Lanette, capt. Coffyn, of Boston,		R. Breed, of Boston, according to capt's declaration; register says Jos. Holmes of Kingston, Mass.	Nov. 2,	Came from England.
33. The Susan, capt. Thomas Delens,		Daniel Guillaver,	Jan. 25, 1809,	Sailed from Ireland when taken.

34. The Delight, capt. Tinkham,		Ebenezer Borthall,	Feb. 15, 1809,	She had not a passport in four languages. It was proven by papers on board that the cargo was destined for London.
35. The President, capt. Owings,		Wm. James Lynch,	Feb. 22,	She was destined for England. An English license found on board.
36. The Mary, capt. Lee,		William Allen,	March 1,	This vessel sailed from Malta for London, under convoy. English property.
37. The Holland Trader, capt. Sinclair,			March 1,	This vessel sailed from an English port.
38. The Amphion, capt. Josiah Wilson,			March 1,	This vessel sailed from an English port. British license; false declaration.
39. The Neptune, capt. Osgood,			March 1,	This vessel came directly from an Eng. port.
40. The Betsey, capt. Bower,		I. Deland,	March 15,	This vessel sailed from an English port; had a license from the king of England.
41. The Hopewell, capt. Sheppard, conducted to Dieppe,	Salem,		March 29,	Opposition to the imperial decree of blockade. Property of English underwriters.
42. The William, capt. Tucker,			April 26,	This vessel came from Eng.; confiscation and fine of 11,500 francs for false declaration.
43. The Juno, capt. William Edwards,	Norfolk,		April 26,	This vessel came from England. Confiscation and fine.
44. The New Guide, capt. Creagh,	New Orleans,		May 3,	Sailed from Alicante to London. English property; English supercargo.
45. The William, capt. Collin. This vessel's name was Augusta, neutralized under the name of William of Norfolk,			May 3,	Infringement of the imperial decrees of blockade.
46. The Wareham, capt. Richard Chadwig,	New York,		May 3,	Condemned for having touched at Plymouth. Confiscation and fine 11,000 francs.
47. The Canton, capt. Henry Latham, conducted to Charente,			May 10,	False declaration, imprisonment, confiscation and fine of 9,000 francs, to be paid before the captain and crew are enlarged.
48. The Minerva, capt. David Jenkins,			May 26,	False declaration; fine of 11,000 francs.

The *William*, captain Tucker, arrived at Charente, in ballast, the 22d of October, 1808, with twelve sailors, the number of the crew; the captain and mariners being interrogated by the French authorities, at Charente, declared that they came from Bergen, in Norway, that the vessel had not touched at any port or place during her voyage, nor was she visited by any English war vessel.

The passport of the President of the United States was wanting; the captain said that it was lost at the custom house of Saloo, in Spain. On two different places of the register the writing was found to be so effaced as to be illegible; the captain being asked the reason of this, replied, that at the custom house of Saloo, it was written that the vessel was destined for Barcelona, and that as he refused to go to that port, the writing was effaced from the register.

The director general of customs took measures to ascertain whether certain documents were actually delivered at Bergen, as was attested by the captain and crew; and transmitted them to the French consul, at Copenhagen, who submitted them to the inspection of the quarantine officers of that town, who declared that the bill of health was forged, as was evident from certain faults of orthography; and that the other papers, said to be delivered there, were doubtless equally false, but that it belonged to the officers of the custom house to verify this opinion.

Captain Tucker was again interrogated, in January, and his answers were the same as before; eight of his seamen had been discharged; the three who remained persisted in the same declaration.

The ship was then put under seizure, and the captain committed to prison.

It was stated in the defence of the vessel, that the interest of the sailors necessarily led them to declare, that she came from England, if this had been the case; seeing that this declaration would have entitled them to one third of the profits arising from the confiscation of the ship; that

the want of the passport is sufficiently supplied by other papers; that the alleged typographical faults are contained in the printed form, which might not be of the same impression as the one sent as a model; that of five papers, only one was declared by the health officers to be forged; and how, it was asked, could this have been executed at England, seeing that the others were actually delivered by the custom house officers at Bergen.

The council having heard the report of the imperial attorney general, decided that the erasures were very suspicious; that the passport of the President of the United States was wanting; that the bill of health, said to be delivered at Denmark, is false, as well as other documents presented to them; that, consequently, the vessel did not come from Bergen, as was asserted by the captain and crew; and that, independently of confiscation, they have incurred the penalty imposed by the decree of the 23d of November, 1807, besides the prosecution to which the forged papers may give birth.

The captain is sentenced to pay the sum of 11,500 francs, for himself and 11 sailors, on account of their false declaration; and they are to remain in prison till this sum is paid; the false papers are to be sent to the minister of justice, to order such measures concerning them as he may think fit.

The *Juno*, of Norfolk, captain William Edwards. This vessel arrived in 1808, at the isle of Ré; the captain declared upon examination, that he came from Bergen, with the intention of sailing for Charente; that during his voyage, he had not been visited by an English war vessel, nor had he touched at any port; that he had left Barcelona in August, 1809, with a cargo of wines, destined for Verrel; that he arrived *there* in October, where he unloaded, and then returned in ballast to Barcelona; that he left this port the 10th February, 1808, and took a cargo of wines from a port on the coast of Catalonia for Bergen; that he left Bergen the 18th June, and arrived the 22d at Cha-

rente; that during this and the last voyage he paid no contribution to the English government; that he had proposed to take in brandies at Charente, which he would probably have carried to Bergen.

This declaration was confirmed by all the crew, except one named *Stanfeldt*, who said that the Juno had been visited by an officer of an English Brig, who conversed with his captain.

Among the ship's papers was found a copy of a license from the king of England, dated the 14th May, 1808, which was to be good for six months; the endorsement proved that it was for the use of the Juno, of Norfolk, coming from Charente, and going to London or Bristol.

Another of the sailors, William Summer, afterwards declared, that she came from Portsmouth and not from Bergen, and that the papers dated at Bergen were false. The court decided, "that this vessel comes under the decrees of the 23d November and 17th December, 1807. The sailor, who declared the truth, is excepted from the fine and penalty; he who acknowledged the visit, but not her real voyage, is to have no gratification. The vessel is confiscated to the profit of the state, and the captain condemned to pay 10,500 francs for himself and crew, on account of their false declaration, and to remain in prison, till this sum is paid. The false papers are to be sent to the minister of justice, to take such measures concerning them as he may think fit."

The ship *New Guide*, of New Orleans, captain Creagh, had sailed to London, from Alicante, with a cargo of soda, wine, and raisins.

The captain being interrogated, declared, that he is a native of Baltimore, in the United States; that his vessel belongs to Mr. Shippend of New Orleans; that the cargo is the property of Compte and Co. of Barcelona, or of Joseph Bum, of London, to whom it was consigned; that he was destined to sail from New Orleans to Bordeaux, but being taken by the English, he was obliged to sell his car-

go in England, where his vessel was finally acquitted ; that he left Alicante the 24th of October, 1808, with a cargo, for London ; that on the 19th of November, the ship being damaged, he was obliged to stop at Lisbon, where he unloaded almost the whole of the cargo, for the purpose of having her repaired; that the 29th of December he stopped at Falmouth, where he had no other expenses to pay than those incurred by the pilots; that his vessel being at quarantine, he could have sailed when he pleased; that he quitted this port the 2d of January, with a convoy, but formed no part of it; that after his departure from Falmouth, he had not been visited except by the corsair who took him.

Two officers, and two of the crew of the vessel, gave the same narrative of facts and circumstances.

The charges brought forward by the court, were as follows: The register of the ship, dated at New Orleans, the 20th January, 1808, proves that her captain was enjoined by the commanders of the English war vessels, the Dryad and the Shannon, on the 17th or 18th of March, 1808, to sail directly for England, and not to touch at a French port.

By an act, made at Barcelona in September, the captain declares, that he had been sent by the Spanish authorities to the French commandant, to obtain permission for the departure of his vessel, and that this could not be granted for less than $25,000 ; and that the other vessels coming from Tangiers to Barcelona, since the period when the French occupied it, were, as he was informed, obliged to pay the same sum. In defence of the vessel and cargo, it was stated, that she was compelled to go to England; that it was impossible to prevent the visit of English war vessels; that the decree of the 17th of December could not possibly be known to him, the captain ; that the French authorities knew well, that the destination for New Orleans was not the real one ; that it could not be mentioned on the certificate, as the towns, that had submitted to French authority, were supposed to have no connection

with the rebels; that by the bill of lading and charter party, made at Tarragon, the 16th of September, 1808, the cargo is proven to be the property of Messrs. Compte and Co. merchants at Barcelona, who remained firmly attached to his majesty, king Joseph; that the soda, forming the chief part of the cargo, was originally destined for Marseilles, but could not be sent there, as the insurgents prevented all communications between these towns.

The conclusions of the imperial attorney general, were as follow: That it was proven from the ship's papers and other evidence, that she was bound from Alicante, a rebel port, to England, and that the cargo was consigned to Mr. Burns,* an Englishman—Besides, the infringement is manifest, of the imperial decrees of the 17th of December, and of the decree of blockade of the 21st November, 1806; that whatever be the attachment and fidelity of the house of Messrs. Compte and Co. to their new sovereign, they cannot be freed from the confiscation incurred by the terms of the decrees, by a permission of the French generals, (of which no evidence exists), nor by any thing less than a special authorization of the French government, which they do not pretend to have even solicited.

The council, of course, decides, that the prize of the New Guide and cargo is just, and are to be sold according to the prescribed forms, for the use of the owners of the privateer.

They invite the minister of marine, to seek information concerning the charts and instruments of navigation, which, the captain of the New Guide says were carried from his cabin, after he was put on board the privateer.

The *William*, of Norfolk, formerly named the *Augusta*, was a French vessel, and by some means or other became neutralized; she was sequestered at Trequier; the captain declared upon examination, that he came from Ber-

* Mr. Burns is a *partner* of the house of Compte and Co. Barcelona.

gen, where he had unloaded grain, which he brought from St. Maloes. The French consul at Bremen, certified that this vessel had not been at that port.

The vessel was confiscated. She was considered by the court as *French property.*

The *Wareham,* captain Chadwig. This vessel arrived at Charente the 8th Oct. 1808; the captain declared that he came from Teneriffe, and that during his voyage he had touched at no port, nor had he been visited by an English vessel. This declaration was confirmed by the testimony of eight mariners.

Information was afterwards received from the isle of Ré, that she had unloaded at Plymouth; a certificate was received from the consul of the United States, and from the French maritime agent, at Bremen, that the ship did not leave this port at the period mentioned by the captain.

Two sailors of the *Amphion* declared, that they saw her in Plymouth in August or September, 1808, where she was undergoing certain repairs.

Independently of the confiscation of the vessel, the penalty incurred by false declaration is put in force; as the seamen, who gave this evidence, did not belong to the vessel, it belongs to the government to decide what recompense they merit.

The sum to be paid is 11,000 francs, for the captain and his crew, ten in number, who are to remain in prison till it is paid. The forged papers are to be sent to the minister of justice, who will employ such measures concerning them as he may think fit.

The *Kitty,* captain Matthews, was acquitted, because there was no evidence that she had been in England, or visited by an English vessel; the captain declared that he came from the coast of Holland, from which he departed the 19th June, 1808; on leaving Rotterdam, she had two bottles of brandy on board; but the court decided that this did not constitute a cargo, and might have been consumed

by the crew, as the captain asserts. The captain is obliged to pay all expenses relating to seizure. We know from the consignee, that this vessel came from England, and of course the declaration made by the captain, was false.

The *Minerva*, captain Jenkins, was despatched from New York to Rotterdam, the 9th of October, 1807, where she arrived the 4th of January, 1808. The captain declared, that on the 21st June she proceeded from this port to Bergen, where she arrived the 3d of July; that on the 8th of same month, she left the latter place, in ballast, for Charente, where she arrived the 6th of August following; that on the 28th of the same month, she was freighted to a house at Charente, to take a cargo of brandies for Bremen, who put 450 pipes on board; that she had received her passport, and paid duties, amounting to 1,527 francs, when the officers of customs, suspecting the truth of the declaration of the crew, proceeded to a new examination; the answers were the same as before, and nevertheless the vessel was seized the 7th of January, 1809, and the captain and crew confined in prison, with the exception of two who had escaped. This measure was taken, in consequence of some marks of forgery, which the certificate of health and passport of quarantine presented.

The members of the court found the papers to differ from those which were issued from the same press, and this they considered as a proof that she did not come from Bergen, but from some prohibited port. The captain is sentenced to pay the sum of 11,000 francs, for himself and ten mariners. The false papers are to be sent to the minister of justice.

The *Canton*, captain Henry Latham, according to the captain's declaration, was at Amsterdam the 13th August, 1808; this fact was attested by his crew. The French consul, in Holland, certified that this vessel was not at Amsterdam at that period of time. The desertion of some of the crew, and the want of the usual passport of the

king of Holland, were considered as proofs that the vessel had been at Britain; she was accordingly confiscated, and a fine of 9000 francs imposed, which must be paid before the captain and six men of the crew are enlarged.

This vessel had taken brandies aboard, which, by a decision of the court, are given up to the proprietors at Charente, on the supposition that the fraud was not known at the time they were shipped.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE HOUSE OF REPRESENTATIVES, RELATIVE TO BLOCKADE OF PORTS OF THE BALTIC BY FRANCE. JAN. 12, 1810.

I COMMUNICATE to the House of Representatives the report of the Secretary of State on the subject of their resolution of the 3d instant.

JAMES MADISON.

REPORT.

THE Secretary of State has the honour to report to the President, in conformity to the resolution of the house of representatives of the 3d instant, that no information has been received at the department of state relative to the blockade of the ports of the Baltic by France, and of the exclusion of neutral vessels by Russia, Sweden, and Denmark. As it is presumed, however, that the enclosed papers, the first a translation of an "Ukase" of the Russian government, dated on the 14th of May, 1809, and the second, a translation furnished to this department on the 10th of January last, by the charge des affaires of Denmark, of such parts of the instructions given to the privateers of that country on the 14th September, 1807, as were

supposed to be most interesting to neutrals, may have some connection with the object of the resolution, they are respectfully submitted.

R. SMITH.

Department of State, Jan. 11, 1810.

It is known to the whole world with what firmness Russia has long protected the neutral trade during the wars of the European powers. It is known with what courage she has defended the interests of the nations trading in peace from the flames of war. Following this invariable principle also, during the present rupture with England, she fully relied that illicit practices would not be admitted in the trade with nations in amity with us. But, as we have learned by experience, during the last year, that the enemy found means through the medium of neutral vessels of obtaining the produce he required, and of exchanging his own, to his aggrandizement, whereby we were lately necessitated to order two ships to be confiscated; for these causes, finding it indispensable to take measures for the prevention of various frauds and artifices, we command,

1st. That ships arriving in our ports shall prove the neutrality of the property, by the following documents, viz. *Of the ship:* by the pass, the ship's register, the muster-roll, and the log-book.—*Of the cargo:* by the charter party, the bills of lading, the declaration certificates of origin; if all the cargo or part thereof belongs to the captain; and by the invoices, if the ship comes from America or India, or if she be destined for those countries. If any of these documents cannot be produced by the captain, such ship shall be sent out of port, without being permitted to unload.

2d. Ships loaded in part with goods which shall be proved to be the produce or manufacture of an enemy's country shall be detained. The goods shall be confiscated and sold by publick sale, for the benefit of the crown. If more

than half of the cargo consists of such goods, then not only the cargo, but the ship also shall be confiscated.

3d. A pass granted by a neutral, friendly, or allied power, shall not protect a captain if it be discovered that he has acted in opposition thereto; nor if the ship bear a name in the pass different from that designated in the other documents, unless proofs of the change of the name, certified by some established authority of the place from whence the ship comes, compose part of the documents of the said ship, and be presented to the custom house. In such case, the captain is not to be criminated for the difference in the name of the ship.

4th. The pass shall not be considered as valid should it be discovered that the ship receiving such pass was not, when the pass was given, in a port of the power giving the pass.

5th. If there be found on board of any ship a supercargo, a captain, or more than one third of the crew, subjects of an unfriendly power; or if the ship have not a muster-roll certified by the supreme authority of such neutral place as the ship comes from, such ship and cargo shall be confiscated, and the crew set at liberty.

6th. If it be discovered that the ship's pass presented by the captain, has been altered or forged, such ship and cargo shall be confiscated; the captain shall be prosecuted and proceeded with as directed by the laws regarding forgers of documents, and the crew set at liberty.

7th. If duplicate documents be discovered on board of a ship with different destinations, such ship and cargo shall be confiscated. If the captain endeavour to justify himself by asserting the total loss of his papers, and should not procure them, such ship and cargo shall be detained, and a reasonable time, considering the distance of the place, shall be granted for the producing of them, if the captain desires it: on the contrary, should the captain be unable to wait, the ship, with the cargo, shall be immediately sent out of port. But should the captain, on the expiration of the time granted him, not produce the papers, the ship and cargo shall be confiscated.

8th. No enemies' built ships shall be acknowledged as neutral or friendly, unless there be among the documents of such ship, an act certified by some publick court, proving that the sale or transfer was made before the declaration of war. In any other case, the ship and cargo shall be confiscated.

9th. If the proprietor or master of the ship, being born subjects of an unfriendly power, should have a pass from a neutral or friendly power, such pass shall not protect them until they prove that they became subjects of and settled in the territories of a neutral or friendly power before the declaration of the war; otherwise they shall be sent away with their ships, without being permitted to take return cargoes.

(Signed) COUNT ROMANZOFF.

St. Petersburgh, May 14, 1809.

[TRANSLATION.]

Regulations for vessels commissioned as privateers, dated Rensburg, Sept. 14, 1807.

SECT. 1. Defines the qualifications for privateers.

2. Form of commission.

3. Regulates the security to be given by the owner.

4. It is the duty of every one thus lawfully commissioned, to take and bring in for adjudication, all ships and vessels belonging to the British crown or to British subjects, and he may also bring in for examination all such ships and vessels as may render themselves suspicious by a deviation from some of those in section 9, given definitions, and in whose papers he finds a founded suspicion of that they do not belong to subjects of friendly or neutral powers; and he may further bring in for examination all such ships and vessels as at the commencement of hostilities were British property, notwithstanding they may have been, by later purchase or contract, made over to subjects of other nations, except by regular papers, passports and sea letters, it satisfactorily appears that they have been in

some friendly or neutral port after they had ceased to be British property.

5. Orders respect to be paid to the territory of neutral or friendly powers, and such territory is considered to extend to one sea league from the land.

6. As we recognise it to be a fundamental principle, never to be departed from, that a free ship makes the goods on board free also, so do we strictly forbid our cruisers commissioned as privateers, to detain any vessel belonging to friendly or neutral powers, be the cargo whose it will, provided the ship's papers are in proper order, and no part of the cargo contraband of war, bound to a port or place under the British dominion.

7. As free ships makes free the goods on board, so does enemy's ships make the cargo hostile, unless it clearly appears that they are the property of neutrals loaded before the commencement of the war, or before the war was known at the place at which it was taken on board, and before the papers of the vessel were expedited.

8. The papers which according to the 6th article ought to be on board in due form, are (a.) a sea pass; (b,) the proof of the carpenter as to the building of the vessel; (c,) a register and certificate of measurement; (d,) a muster roll; (e,) a clearance; (f,) a charter party or bills of lading; (g,) and for such vessels as have passed the sound, a clearance from Elsinore: every ship or vessel which has so passed and is found without such clearance, will be condemned as lawful prize to the captor.—*Royal Plaiat dal. Copenhagen, 14th November*, 1807.

9. As good prize will be considered, all vessels which belong to the crown of Great Britain, or to British subjects in whatever part of the world they reside. Further, shall, after due investigation, according to the particular circumstances of the case, be condemned as good prize:

(a) All vessels which shall be found at sea without sea pass; or, (b,) when the pass or other documents are found to be false; (c,) when they are found in a course different from that expressed in their pass, unless forced thereto by

storms, bad weather, pursuit of an enemy, or other accidents or distress, which must be proved by the journal; (d,) when loaded wholly or in part with contraband of war, which on investigation shall be destined to a British port; (e,) when a vessel is detained or about to be detained by a privateer offers resistance; (f,) such ships or vessels as shall approach a squadron blockading a Danish town, port or province, in order to trade with it or to carry it provisions.

10. Enumerates the articles which constitute contraband of war.

11. Directs the conduct to be observed at sea towards ships belonging to neutral or friendly powers; the privateer, in case of suspicion only, to board such vessels.

12. The crews of privateers are forbidden to break open any drawer, trunk, or package, or any part of the cargo; but in case of suspicion of contraband of war, they may require of the master of the neutral ship to open himself with the assistance of his own people, unless he should prefer to be carried into port for examination....prescribes penalty for acting contrary.

13. Conduct to be observed towards vessels detained until they reach port.

14. All prizes to be sent into Danish or Norwegian ports, under the penalty of forfeiture of the commission; distress of weather, pursuit of an enemy, &c. excepted.

15. Regulates the examination and first proceedings in the case of a vessel carried in, and of the officer whose duty it is to attend thereto; the act of examination duly attested, and a lawful inventory of the cargo and ship to be sent to the prize court.

16. Regulates the duty of the prize court, &c. in giving judgment, all circumstances are to be duly considered, but no other letter or papers to be produced as evidence against the vessel or cargo, except such as were actually found on board at the time of its detention.

17. Provides a prize court for every province in Denmark and Norway, and one for each of the duchies.

18. Respects appeals to the high court of admiralty.

19. When a privateer detains a vessel without any of those justifiable causes before mentioned, all reasonable expenses and damages arising therefrom, must be made good by such privateers; but if the detained vessel shall not be furnished with regular papers, the capturing vessel shall be acquitted from all the consequences of such detention.

20. Provides for the sale at publick auction of all prizes condemned, deducting from the proceeds of the sale, one per cent. for the use of the marine hospital at Copenhagen; exempts from duty, tonnage, and all other charges, vessels and cargoes detained.

21. Directs the crews of vessels condemned as prize, if British subjects, to be sent to the nearest fortress, there to be considered as prisoners of war; and such as are subjects of friendly or neutral powers, to be delivered to the consuls of their respective nations.

22. Directs a copy of these regulations to be on board every privateer.

Given in our city and fortress of Rensburg, the 14th September, 1807.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE HOUSE OF REPRESENTATIVES, RELATIVE TO THE FREE NAVIGATION OF THE MOBILE. FEB. 9, 1810.

I TRANSMIT to the House a report of the Secretary of State, complying with their resolution of the twenty-second of January. JAMES MADISON.

REPORT.

THE Secretary of State, to whom the President has been pleased to refer the resolution of the House of Representa-

tives, of the 22d of last month, has the honour to state, that it appears from the records in this department, that in the years 1801 and 1802, the executive had endeavoured to obtain for the citizens of the United States, residing on the waters of Tombigbee and Alabama rivers, the free navigation of the Mobile river to its confluence with the ocean. —1st. by claiming this navigation as a natural right, sanctioned by the general principles of the law of nations, applicable to rivers similarly situated; and 2d, by endavouring to purchase the country held by Spain on the Mobile.

These efforts were made before it was known that Spain had ceded Louisiana to France, and consequently before the purchase of that province by the United States. Since that purchase, the country held by Spain on the Mobile has been claimed as being included therein.

The Spanish government having objected to this claim in a manner which justified a belief that the question would not be soon decided, our minister at Madrid was instructed again to claim the free navigation of the Mobile, under the general principles of the law of nations, and to represent to his Catholic majesty the propriety and necessity of giving orders to his officers not to interrupt the free communication with our territories through the waters of the Mobile.

In addition to what has been done through this department, it appears that the governour of the Orleans territory and other officers of the United States have endeavoured to induce the Spanish authorities on the Mobile to abstain from exacting duties on the passage of our merchandise or produce up or down that river. Notwithstanding, however, every thing which has been done, it is understood that these authorities have continued to exact (with some occasional relaxations) a duty of twelve per cent. "on all articles of the growth or manufacture of the United States, which are conveyed through said river to and from the city of New Orleans."

All which is respectfully submitted.

R. SMITH.

Department of State, Feb. 8, 1810.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE HOUSE OF REPRESENATIVES. FEB. 17, 1810.

I TRANSMIT reports of the Secretaries of State and of the Treasury, complying with their resolution of the fifth instant.

JAMES MADISON.

REPORT OF THE SECRETARY OF STATE.

DEPARTMENT OF STATE, FEB. 14, 1810.

AGREEABLY to a resolution of the House of Representatives of the 5th instant, requesting the President of the United States to cause to be laid before that House copies of the several communications made to the governments of France and Great Britain, in pursuance of the authorities vested by Congress in the executive, with respect to the several orders and decrees of either violating the lawful commerce and neutral rights of the United States, except such parts as may, in his judgment, require secrecy; and also to communicate to the same House such information as he may have received touching the forgery of papers purporting to be those of American vessels, the Secretary of State has the honour of laying before the President the following papers, viz.

1. Extract of a letter from Mr. Smith, Secretary of State, to general Armstrong, minister plenipotentiary of the United States, at Paris, dated March 15, 1809.

2. Copy of a note from general Armstrong to count Champagny, minister of exterior relations at Paris, dated April 29, 1809.

3. Extract of a letter from Mr. Smith to Mr. Pinkney, minister plenipotentiary of the United States at London, dated March 25, 1809.

4. Extracts of a letter from Mr. Pinkney to Mr. Smith, dated May 1, 1809.

A. Extracts of a letter from John M. Forbes, consul of the United States at Hamburg, to Mr. Madison, Secretary of State, dated November 13, 1807.

B. Extracts of a letter from Mr. Lee, commercial agent of the United States at Bordeaux, to the same, dated Nov. 1, 1808.

C. Copy of a letter from Mr. Hackley, consul of the United States at St. Lucar, to Mr. Smith, dated Cadiz, March 23, 1809.

D. Sundry original documents belonging to, and concerning the ship Aurora of New York.

E. Extract of a letter from Mr. Harris, consul of the United States at St. Petersburg, to Mr. Smith, dated 13-25th October, 1809, covering certain papers belonging to the ship called the Georgia, of New York.

F. Extracts of a letter from John M. Forbes, dated November 7, 1809, to Mr. Smith, covering the forged sea letter of the ship Arno, of Boston, dated August 21, 1809, also a letter of the same date, signed Stephen Higginson and company, to captain William Kempton.

G. Extract of a letter from William Kirkpatrick, consul of the United States at Malaga, to Mr. Smith, dated Nov. 25, 1809.

It may be proper moreover to state, that various other communications have been received at this department from the agents of the United States in foreign countries, which mention that the practice prevails of forging American ships' papers and documents; but as they do not afford any details, they are not included in this report, which is respectfully submitted. R. SMITH.

(1.)

Extract of a Letter from the Secretary of State, to Gen. Armstrong, minister plenipotentiary of the United States at Paris, dated Department of State, March 15, 1809.

"THE proceedings of Congress at their late session, combined with the executive communications, affording, as they do, additional proofs of the pacifick disposition of this government, and of its strict observance of whatever the laws of neutrality require, you will not fail to avail yourself of the just arguments thence deducible in urging the equitable claims of the United States. The 1st, 2d, 3d, 4th, 11th, and 17th sections of the act interdicting our commercial intercourse with Great Britain and France, will, in that view, claim your attention, and especially the 11th section, authorizing the executive to renew our commerce with the nation withdrawing the operation of its illegal edicts. And you will be careful to let it be understood that the authority thus vested, will, of course, be exercised in the event stated in the law."

(2.)

General Armstrong to Count Champagny.

PARIS, APRIL 29, 1809.

THE undersigned, minister plenipotentiary of the United States, has the honour of presenting to his excellency the minister of exterior relations, the enclosed copy of a law recently passed by the legislature of the union.

This law, as may be seen by the several provisions of it, has been forced upon them by the extraordinary circumstances of the times, and is to be regarded as an act of precaution, taken with a view only of protecting their own property and rights, and of once more appealing to the interests and justice of those who would disturb or destroy them.

Your excellency may be assured, that as nothing has given more disquietude to the United States than the

necessity which has impelled them to the adoption of this measure, so nothing will give them more satisfaction, than to see that necessity cease. It is in the spirit and sincerity of this declaration, that the undersigned is instructed to add, that any interpretation of the imperial decrees of the 21st of November, 1806, and 17th of December, 1807, which shall have the effect of leaving unimpaired the maritime rights of the union, will be instantaneously followed by a revocation of the present act, and a re-establishment of the ordinary commercial intercourse between the two countries.

I offer to your excellency, &c.

(*Signed*) JOHN ARMSTRONG.

His Excellency Count CHAMPAGNY.

(3.)

Extract of a letter from the Secretary of State to William Pinkney, Esq. minister plenipotentiary of the United States in London, dated Department of State, March 15, 1809.

"THE proceedings of Congress at their late session combined with the executive communications, affording as they do, additional proofs of the pacifick disposition of this government and of its strict observance of whatever the laws of neutrality require, you will not fail to avail yourself of the just arguments thence deducible in urging the equitable claims of the United States. The 1st, 2nd, 3d, 4th, 11th and 17th sections of the act interdicting our commercial intercourse with Great Britain and France, will, in that view, claim your attention, and especially the eleventh section, authorizing the executive to renew our commerce with the nation withdrawing the operation of its illegal edicts. And you will be careful to let it be understood, that the authority thus vested, will of course be exercised in the event stated in the law."

(4.)

Extracts from a letter of Mr. Pinkney, minister plenipotentiary of the United States, at London, to Mr. Smith, Secretary of State, dated London, May 1, 1809.

"Upon receipt of your letter of the 15th of March, it became my obvious duty to ask a conference with Mr. Canning. It took place accordingly on Monday the 17th of April."

"With a view to do justice to the character and tendency of the law of the first of March, I called the attention of Mr. Canning in a particular manner to the 11th section, which provides for the renewal of commercial intercourse with the power revoking or so modifying its edicts as that they should cease to violate the neutral commerce of the United States; and in obedience to my instructions I assured him that the authority vested in the President to proclaim such revocation or modification, would not fail to be exercised as the case occurred."

"I entered into a minute explanation of the law of the first of March, and in the course of it, availed myself of every inducement of interest which it could be supposed to furnish to this government to retract its orders in council, and of the proofs with which it abounds of the sincere desire of the American government to cultivate peace and friendship with Great Britain, even while it was repelling what it deemed encroachments and injuries, the most pernicious and alarming."

(A.)

Extracts from a letter from John M. Forbes, consul of the United States at Hamburg, to Mr. Madison, Secretary of State, dated November 13, 1807.

"Two days ago the chief of the French douaniers, M. Eudel, having from the circulating rumours of the town reason to suspect that an American ship, the Lucy, captain Jesse Englee, entered as coming from Norfolk, had come

from England, proceeded to examine the crew; notice of this was given to me by the captain, who had also consigned his ship and freight to me, the cargo being addressed to Messrs. Osgand and Co. of this city, but having always refused to acknowledge the authority of the French douaniers, I declined being present in any official character, and as the commercial correspondent of the captain sent my chief clerk on board to render such assistance as might be proper. The examination did not take place on board at the time appointed, but at a later hour at the house of M. Eudel. My clerk was not present, but I afterwards learned, that the mate and crew had all sworn that the ship came from London. As soon as I learned this I wrote the captain a letter, disclaiming all further individual agency in this business."

"I examined more closely the papers of the ship Lucy, and convinced myself, by comparison of hands, that the signatures both of the President and your excellency to the sea letter, were both evidently forged.

(B.)

Extracts of a letter from Mr. Lee, consul of the United States, at Bordeaux, to the Secretary of State, dated November 1, 1808.

"I HAVE been long in expectation that the President would have instructed the consuls to detain in their hands, the papers of all American vessels found in their district after the embago, unless they were bound directly to the United States. A determination of this nature would have done but little or no injury to our merchants, and put a stop to the practice of the English, who send shoals of American vessels from their ports, whose owners never saw America, and whose papers are manufactured in London.

"Ten vessels, suspected of having been expedited in this way from London, lately arrived in the river Charante, as coming from Norway, and were admitted by the custom

house. I sent an agent over to Charante, to examine into the state of these vessels, whose report confirmed my suspicions. I immediately wrote general Armstrong on the subject, but fearing delays might be injurious, I sat out for la Rochelle, and on my arrival at Blaize, learnt that some of the crews of these vessels had betrayed their captains, and that the whole of them were seized by this government, and the crews imprisoned."

"It is proper to state to you, sir, that our vessels' papers, with all their private marks, are so completely copied in London, that it is almost impossible to detect them."

(C.)

Copy of a letter from Richard S. Hackley, consul of the United States at St. Lucar, dated Cadiz, 23d of March, 1809, to the Secretary of State.

SIR,

YOUR department has no doubt been informed that the practice prevails in London of forging all kinds of papers that appertain to shipping of the United States, to which may be added passports from the department of state, certificates of naturalization, &c. &c. some of which are well executed, so much so, that the fraud very generally passes without being detected. By this means, a considerable trade has been carried on last year *under our flag* by British shipping, particularly to Russia and South America, and British subjects have passed wherever their business called them. Protected by these papers, our countrymen have but in too many instances found similar frauds answer their own purposes under the state of things as they now are, and have, for some time been in Europe.

The name of the person in London who is the great dealer in this species of speculation, is Van Saunders, and with this note, I cover you a sample of his execution in a set of papers received from an American citizen here, from whom I demanded them upon being informed that he had them. To you the propriety will occur of taking

some immediate step to correct this evil, which from its increasing practice, is becoming of serious importance in many points of view.

With much respect, &c.

(*Signed*) RICHARD S. HACKLEY.

Papers enclosed in the first.

Note.—The original never received at the department of state.

(D.)

Statement of the collector of Boston, respecting ship Arno.

THE ship Arno, of Duxbury, burden 197 7-95, owned by Jacob Weston, of Duxbury, in the district of Plymouth, state of Massachusetts, and William Kempton, and John Perry, of Boston, state aforesaid, William Kempton, master, cleared from the district of Boston and Charlestown, on the 17th day of June, 1809, for Bremen, loaded with eight hundred and four barrels pearl ashes, weighing 3,350 cwt. and three hundred and forty-nine barrels of pot ashes, weighing 1,219 cwt. being the whole of her cargo. A bond was taken, that the said vessel should not proceed to a port in France or its dependencies, in the penalty of 80,000 dollars. A certificate has been returned of the landing of the cargo aforesaid, at London, signed by Samuel Williams, merchant, and William Lyman, consul at London. Her register was granted at Plymouth, on the 17th day of May, 1809, No. 27; and she had from this office a Mediterranean pass, dated 17th June, 1809, No. 87, and all other papers requisite.

The ship Arno is now in this port, and Kempton, her late master. H. D.

(E.)

Extract from a Letter of Levett Harris, consul of the United States, at St. Petersburg, to Mr. Smith, dated St. Petersburg, 13-25th Oct. 1809.

"I TRANSMIT you herewith, the papers of a vessel called the Georgia, of New York, arrived at Archangel,

of New York, the register whereof, proving false, all the other papers I judge alike to be the same, and she has, therefore, been condemned by this government. Another vessel called the Intercourse has shared the same fate; but the ministry have not yet sent me the papers."

(F.)

Extracts of a Letter from John M. Forbes, consul of the United States at Hamburg, dated Tonningen, November 7, 1809.

"I HAVE lately met with a circumstance which has embarrassed me much. The ship "Arno," captain Kempton, of Boston, known to have left that port on the 18th (7th) of June, with a cargo of pot and pearl ashes, lately arrived here with a cargo of gum." "I herewith enclose the sea letter which captain Kempton confessed to me he knew to have been forged, and which he said he had reason to believe was executed by one Van Sander, a Jew near White-hall, in London, who is known in the traffick of false American documents. I also enclose the original letter of instructions of Messrs. Stephen Higginson and company, owners of the cargo."

BOSTON, AUG. 21, 1809.

DEAR SIR,

YOU being master of the ship Arno, loaded by us, and now ready for sea, we have to request that you will proceed to the port of Tonningen as soon as possible, where you will inquire for the agents of Messrs. Parish and Co. of Hamburg, to whom your cargo is consigned. You will of course receive instructions from those gentlemen how to proceed as to landing your cargo, &c. and you will please follow them. It is important to yourself as well as us, that you do nothing to violate the laws of any of the belligerents, in which case you will not be likely to meet with

any interruption in your voyage. Wishing you a pleasant passage and safe return, we are, sir, &c.

STEPHEN HIGGINSON & CO.

Capt. William Kempton.

(G.)

Extract of a Letter from Mr. Kirkpatrick, consul of the United States at Malaga, to Mr. Smith, Secretary of State, dated November 25, 1809.

"A few days ago the brig Uforsight, Christian Bodon, master, arrived here from Poole, with a cargo of bale goods and fish. Although her papers appear to be in perfect order, some doubts exist in my mind of their legality. I have consulted with some citizens of the United States actually here, and they agree with me in opinion, that the signatures of the President, yours, collector of New York, and of Joseph Nourse, are so well done that it is impossible to discover any difference. Under this impression I have determined to pass you a note of the ship's papers, that if they are really false, you may take such measures as you consider proper for having them seized on by the consuls in Europe where the vessel may be found."

Note—The ship's papers alluded to are found to have been forged.

Report of the Secretary of the Treasury.

TREASURY DEPARTMENT, FEB. 16, 1810.

SIR,

I have the honour to enclose a statement transmitted by the collector of Boston, in relation to the ship Arno, which entered Tonningen with a forged sea letter.

Exclusively of the cases respecting forged marine papers which have from time to time been communicated by the department of state, one only has come to the knowledge of the treasury, the particulars of which are explained by the enclosed letter from the collector of New York, and the papers accompanying the same. I have the honour to be, &c.

ALBERT GALLATIN.

The President of the United States.

Extract of a Letter from the Collector of New York, to the Secretary of the Treasury, dated Feb. 22, 1808.

"I HAVE just received copies of the clearances of the four following ships, with copies of certificates of origin, from Mr. Heineken, at Philadelphia, as clearing from this port to Amsterdam, the whole of which are most certainly forgeries.

Ann and Hope,	16th April last, with	411	hhds. sugar,
Juno,	do.	338	do. do.
Merchant,	23d,	435	do. do.
Jane,	16th,	506	do. do.
		And 142	boxes oil.

"It does not appear that either of the three first mentioned ships were ever in this port.

"The Jane, Captain Gardiner, cleared the 21st March last for Liverpool, genuine copy of clearance enclosed;* copies of those sent me by Mr. Mr. Heineken relating to the Jane, are enclosed;† the others being of the same tenour, I do not send.

"As the Jane went out with the cargo, as mentioned, the sugars were undoubtedly taken in at Liverpool. Where the papers were forged is left to conjecture."

PHILADELPHIA, FEB. 19, 1808.

SIR,

HAVING received, in my late communications from Holland, several clearances (to the amount of fourteen) concerning vessels detained there, under suspicions of being last from England, I hereby enclose a copy for your investigation, and beg a candid answer, if those copies are true, and if the originals were issued at your office.

I have the honour to be, &c.

(*Signed*) JAN. HEN. CH. HEINEKEN.

To DAVID GELSTON,
Collector of the port of New York.

* Marked A. † Marked B.

American Consulate, St. Petersburg, July 17, 1809.

SIR,

THE enclosed papers accompanied a ship which arrived here late last autumn, and wintered here, called the Aurora, of New York. This vessel was provided with a false register, the only marine paper whose genuineness we are able to ascertain, and upon which the government here condemned her for the benefit of the crown: from this fact it is indubitable that all the enclosed documents are forgeries.

I herewith transmit them to you, with a request that after the necessary examination shall have been made, you will be pleased to forward them to the department of state in America, the secretary whereof I have duly advised of the same.

I am very truly and respectfully, sir, &c.

LEVETT HARRIS.

S. BOURNE, Esq.
Consul General of the U. S. Amsterdam.

List of papers belonging to a ship called the Aurora, of New York, transmitted to S. Bourne, Esq. at Amsterdam, for examination, with a request to send them after the same shall have been made, with a report thereof, to the department of state.

No. 1. Role d'Equipage, certified in the name of George R. Curtis, agent of Silvanus Bourne, Rotterdam.

No. 2. Certificate for the landing of the cargo brought from New York, signed George R. Curtis, Rotterdam, 4th March, 1808.

No. 3. Certificate for the deposit of the ship's papers, signed George R. Curtis, 26th Sept. 1808.

No. 4. Bill of health, signed A. Reuter, secretary, dated Rotterdam, 26th Sept. 1808.

No. 5. An expedition in the Dutch language, for Riga, to said ship, dated 26th Sept. signed Gogel, and countersigned 26th Sept. Rotterdam, Jan Schadee.

No. 6. A second expedition for do. do. in Dutch, dated Rotterdam, 26th Sept. 1808.

LEVETT HARRIS,
Consul Gen. of the U. S.

St. Petersburg, July 17, 1809.

Mr. Curtis to Mr. Bourne.

ROTTERDAM, AUG. 25, 1809.

DEAR SIR,

I REFER you to my report upon the papers of the Aurora, which are returned herewith, for all the answer I can give to your esteemed lines of yesterday's date, which however will no doubt prove satisfactory. It is not the first time I have seen these kind of documents; the French consul here laid before me a short while ago a similar set, but executed with much greater skill than these have any claim to. I was sorry I had not the good fortune to find you at home as I passed through Amsterdam the other day; it would have interested me to hear your opinion of American politicks at this juncture. Yours with esteem,

GEORGE R. CURTIS.

S. Bounre, Esq. Amsterdam.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE HOUSE OF REPRESENTATIVES. MARCH 27, 1810.

IN consequence of your resolution of the 26th instant, an inquiry has been made into the correspondence of our minister at the court of London with the department of state, from which it appears that no official communication has been received from him, since his receipt of the letter of November 23d last, from the Secretary of State. A letter of January 4th, 1810, has been received from that minister

by Mr. Smith; but being stated to be private and unofficial, and involving moreover personal considerations of a delicate nature, a copy is considered as not within the purview of the call made by the house.

JAMES MADISON.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE HOUSE OF REPRESENTATIVES. MAY 1, 1810.

I TRANSMIT to the House a report of the Secretary of State, complying with their resolution of the 30th of April.

JAMES MADISON.

REPORT.

IN pursuance of the resolution of the House of Representatives of yesterday, the Secretary of State has the honour of transmitting to the President of the United States, the accompanying papers marked A. B. C. D. E. and F.

No information has been received, that any communication has been made to our minister at London, on the part of the British government, "in answer to any note presented by him in pursuance of instructions given on the 23d November, 1809."

No answers have been given to the "propositions or overtures, made on the part of the United States to the governments of Great Britain and France, respecting any of the orders and decrees affecting neutral commerce," which have not been heretofore, or which are not herewith communicated.

All which is respectfully submitted.

R. SMITH.

Department of State, May 1, 1810.

LETTERS.

(A.)

Extract of a Letter from General Armstrong to M. Champagny.

PARIS, SEPT. 8, 1809.

"I HAD the honour of receiving your excellency's letter of the 22d of August last, in exposition of the principles adopted by his majesty with regard to neutral commerce. I shall hasten to transmit a copy of this note to my government."

(B.)

The Secretary of State to General Armstrong.

DEPARTMENT OF STATE, DEC. 1, 1809.

SIR,

ENCLOSED you have five copies of the President's message and of its accompanying documents. They will afford you a view of the existing state of things here, and particularly of the ground taken in the correspondence with the British minister. You will perceive that the deliberations of Congress at their present session cannot but be embarrassed by the painful consideration, that the two principal belligerents have been, for some time, alike regardless of our neutral rights, and that they manifest no diposition to relinquish, in any degree, their unreasonable pretensions.

You will also herewith receive a copy of a letter to Mr. Pinkney, which will show the light in which Mr. Champagny's letter is viewed by the President, and at the same time the course of proceeding prescribed to our minister in London. You will of course understand it to be wished that you should ascertain the meaning of the French government, as to the condition on which it has been proposed to revoke the Berlin decree. On the principle

which seems to be assumed by M. Champagny, nothing more ought to be required than a recall by Great Britain of her proclamation or illegal blockades, which are of a date prior to that of the Berlin decree, or a formal declaration that they are not now in force. Should this be done and be followed by an annulment of all the decrees and orders in chronological order, and Great Britain should afterwards put in force old or proclaim new blockades, contrary to the law of nations, it would produce questions between her and the United States, which the French government is bound to leave to the United States, at least until it shall find it necessary to bring forward complaints of an acquiescence on our part, not consistent with the neutrality professed by us.

You will yourself, and, if necessary you will let the French government understand, that we do not consider ourselves bound to contest the legality of a blockade which may be conformable to the definitions heretofore maitained by the United States, and particularly to the definition contained in the treaty of June and October, 1801, between Great Britain and Russia. However founded the definition of M. Champagney may be in reason and general utility, and consequently however desirable to be made the established law on the subject of blockades, a different practice has too long prevailed among all nations, France as well as others, and is too strongly authenticated by the writers of admitted authority, to be combated by the United States.

If you should receive from the French government explanations proper to be communicated to Mr. Pinkney, you will not fail to transmit the same to him without delay. And should they be such as to make it important that Mr. Pinkney should immediately found thereon an application to the British government to prepare the way for a repeal of the Berlin decree, you will be pleased to hasten the communication to him by a special messenger. Whatever the explanations may be, you will of course transmit them

to this department, with such other information as may be interesting. With great respect, &c.

(*Signed*) R. SMITH.

General JOHN ARMSTRONG, *&c. &c. &c.*

(C.)

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, NOV. 11, 1809.

SIR,

FROM the enclosed copy of a letter from M. Champagny to general Armstrong, it appears that the French government has taken a ground in relation to the British violation of our neutral rights, not the same with that heretofore taken, and which it is proper you should be acquainted with. You will observe that the terms stating the condition on which the Berlin decree will be revoked are not free from obscurity. They admit the construction, however, that if Great Britain will annul her illegal blockades as distinct from her orders in council, such as the blockade from the Elbe to Brest, &c. prior to the Berlin decree, and perhaps of subsequent date, but still distinct from her orders in council, that France will put an end to her Berlin decree, or at least the illegal part of it. Whilst therefore it becomes important to take proper steps, as will be done, through general Armstrong, to ascertain the real and precise meaning of M. Champagny's letter, it is important also that your interposition should be used to ascertain the actual state of the British blockades, distinct from the orders in council, whether merely on paper or otherwise illegal, and whether prior or subsequent to the Berlin decree, and to feel the pulse of the British government on the propriety of putting them out of the way, in order to give force to our call on France to prepare the way for a repeal of the orders in council, by her repeal of that decree.

In the execution of this task, I rely on the judgment and delicacy by which I am persuaded you will be guided, and on your keeping in mind the desire of this government to entangle itself as little as possible in the question of pri-

ority in the violation of our neutral rights, and to commit itself as little as possible to either belligerent as to the course to be taken with the other.

If it should be found that no illegal blockades are now in force, and so declared by Great Britain, or that the British government is ready to revoke and withdraw all such as may not be consistent with the definition of blockade in the Russian treaty of June, 1801, it will be desirable that you lose no time in giving the information to general Armstrong, and whatever may be the result of your inquiries, that you hasten a communication of it to me.

Writing on short notice of the present conveyance, I have only to add the assurance of my esteem and great consideration, &c.

(*Signed*) R. SMITH.

(D.)

Extract of a Letter from General Armstrong to the Secretary of State.

PARIS, JAN. 28, 1810.

"In conformity to the suggestions contained in your letter of the first of December, 1809, I inquired whether, if Great Britain revoked her blockades of a date anteriour to the decree, commonly called the Berlin decree, his majesty the emperour would consent to revoke the said decree? To which the minister answered, that "the only condition required for the revocation, by his majesty, of the decree of Berlin, will be a previous revocation by the British government of her blockade of France, or part of France, [such as that from the Elbe to Brest, &c.] of a date anteriour to that of the aforesaid decree; and that if the British government would then recall the orders in council which had occasioned the decree of Milan, that decree should also be annulled."

(E.)

Extract of a Letter from Mr. Pinkney to the Secretary of State.

LONDON, FEB. 28, 1810.

"I HAVE received from general Armstrong, a letter, of which a copy is enclosed; and have, in consequence, made a written inquiry of lord Wellesley (with whom I had before communicated personally on the subject,) as to the existence of the blockades to which it alludes. I am not without hopes that the reply to my inquiry will amount to a declaration (satisfying in substance the condition mentioned in general Armstrong's letter) that these blockades are not in force: and if it should, I will send immediate notice to general Armstrong. I have prepared an official letter to you on this head, which, with such additions as circumstances may enable me to make to it, will be sent by the corvette," [the John Adams.]

(F.)

Copy of a Letter from General Armstrong to Mr. Pinkney.

PARIS, JAN. 25, 1810.

SIR,

A LETTER from Mr. Secretary Smith, of the 1st of December last, made it my duty to inquire of his excellency the duke of Cadore, what were the conditions on which his majesty the emperour would annul his decree, commonly called the Berlin decree, and whether, if Great Britain revoked her blockades of a date anteriour to that decree, his majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger.

Answer.

"THE only condition required for the revocation, by his majesty the emperour, of the decree of Berlin, will be the

previous revocation by the British government of her blockades of France, or part of France [such as that from the Elbe to Brest, &c.] of a date anteriour to that of the aforesaid decree."

I have the honour to be, &c.

(Signed) JOHN ARMSTRONG.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE TWO HOUSES OF CONGRESS, AT THE COMMENCEMENT OF THE THIRD SESSION OF THE ELEVENTH CONGRESS. DEC. 5, 1810.

FELLOW CITIZENS OF THE SENATE
AND OF THE HOUSE OF REPRESENTATIVES,

THE embarrassments which have prevailed in our foreign relations, and so much employed the deliberations of Congress, make it a primary duty, in meeting you, to communicate whatever may have occurred, in that branch of our national affairs.

The act of the last session of Congress, "concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies," having invited, in a new form, a termination of their edicts against our neutral commerce, copies of the act were immediately forwarded to our ministers at London and Paris, with a view that its object might be within the early attention of the French and British governments.

By the communication received through our minister at Paris, it appeared, that a knowledge of the act by the French government, was followed by a declaration that the Berlin and Milan decrees were revoked, and would cease to have effect on the first day of November ensuing. These being the only known edicts of France, within the description of the act, and the revocation of them being such that

they ceased, at that date, to violate our neutral commerce, the fact, as prescribed by law, was announced by a proclamation bearing date the second day of November.

It would have well accorded with the conciliatory views, indicated by this proceeding, on the part of France, to have extended them to all the grounds of just complaint, which now remain unadjusted with the United States. It was particularly anticipated that as a further evidence of just dispositions towards them, restoration would have been immediately made of the property of our citizens seized under a misapplication of the principle of reprisals, combined with a misconstruction of a law of the United States. This expectation has not been fulfilled.

From the British government no communication on the subject of the act has been received. To a communication from our minister at London of the revocation, by the French government, of its Berlin and Milan decrees, it was answered that the British system would be relinquished as soon as the repeal of the French decrees should have actually taken effect, and the commerce of neutral nations have been restored to the condition in which it stood, previously to the promulgation of those decrees. This pledge, although it does not necessarily import, does not exclude the intention of relinquishing, along with the orders in council, the practice of those novel blockades which have a like effect of interrupting our neutral commerce. And this further justice to the United States is the rather to be looked for, inasmuch as the blockades in question, being not more contrary to the established law of nations, than inconsistent with the rules of blockade formally recognised by Great Britain herself, could have no alleged basis, other than the plea of retaliation, alleged as the basis of the orders in council. Under the modification of the original orders of November, 1807, into the orders of April, 1809, there is indeed scarcely a nominal distinction between the orders and the blockades. One of those illegitimate blockades, bearing date in May, 1806, having been expressly avowed to be still unrescinded, and to be,

in effect, comprehended in the orders in council, was too distinctly brought within the purview of the act of Congress, not to be comprehended in the explanation of the requisites to a compliance with it. The British government was accordingly apprized by our minister near it, that such was the light in which the subject was to be regarded.

On the other important subjects depending between the United States and that government, no progress has been made, from which an early and satisfactory result can be relied on.

In this new posture of our relations with those powers, the consideration of Congress will be properly turned to a removal of doubts which may occur in the exposition, and of difficulties in the execution of the act above cited.

The commerce of the United States, with the north of Europe, heretofore much vexed by licentious cruisers, particularly under the Danish flag, has latterly been visited with fresh and extensive depredations. The measures pursued in behalf of our injured citizens not having obtained justice for them, a further and more formal interposition with the Danish government is contemplated. The principles which have been maintained by that government in relation to neutral commerce, and the friendly professions of his Danish majesty towards the United States, are valuable pledges in favour of a successful issue.

Among the events growing out of the state of the Spanish monarchy, our attention was imperiously attracted to the change, developing itself in that portion of West Florida, which, though of right appertaining to the United States, had remained in the possession of Spain; awaiting the result of negotiations for its actual delivery to them. The Spanish authority was subverted; and a situation produced, exposing the country to ulterior events, which might essentially affect the rights and welfare of the union. In such a conjuncture, I did not delay the interposition required for the occupancy of the territory west of the river Perdido; to which the title of the United States extends,

and to which the laws, provided for the territory of Orleans, are applicable. With this view, the proclamation, of which a copy is laid before you, was confided to the governour of that territory, to be carried into effect. The legality and necessity of the course pursued, assure me of the favourable light in which it will present itself to the legislature; and of the promptitude, with which they will supply whatever provisions may be due to the essential rights and equitable interests of the people thus brought into the bosom of the American family.

Our amity with the powers of Barbary, with the exception of a recent occurrence at Tunis, of which an explanation is just received, appears to have been uninterrupted, and to have become more firmly established.

With the Indian tribes, also, the peace and friendship of the United States are found to be so eligible, that the general disposition to preserve both, continues to gain strength.

I feel particular satisfaction in remarking that an interior view of our country presents us with grateful proofs of its substantial and increasing prosperity. To a thriving agriculture, and the improvements related to it, is added a highly interesting extension of useful manufactures; the combined product of professional occupations, and of household industry. Such, indeed, is the experience of economy, as well as of policy, in these substitutes for supplies heretofore obtained by foreign commerce, that, in a national view, the change is justly regarded as of itself more than a recompense for those privations and losses resulting from foreign injustice, which furnished the general impulse required for its accomplishment. How far it may be expedient to guard the infancy of this improvement in the distribution of labour, by regulations of the commercial tariff, is a subject which cannot fail to suggest itself to your patriotick reflections.

It will rest with the consideration of Congress, also, whether a provident, as well as fair encouragement, would not be given to our navigation, by such regulations as will

place it on a level of competition with foreign vessels, particularly in transporting the important and bulky productions of our own soil. The failure of equality and reciprocity in the existing regulations on this subject operates, in our ports, as a premium to foreign competitors; and the inconvenience must increase, as these may be multiplied, under more favourable circumstances, by the more than countervailing encouragements now given them, by the laws of their respective countries.

Whilst it is universally admitted that a well instructed people alone can be permanently a free people; and whilst it is evident that the means of diffusing and improving useful knowledge form so small a proportion of the expenditures for national purposes, I cannot presume it to be unseasonable, to invite your attention to the advantages of superadding, to the means of education provided by the several states, a seminary of learning, instituted by the national legislature, within the limits of their exclusive jurisdiction; the expense of which might be defrayed, or reimbursed, out of the vacant grounds which have accrued to the nation within those limits.

Such an institution, though local in its legal character, would be universal in its beneficial effects. By enlightening the opinions; by expanding the patriotism; and by assimilating the principles, the sentiments and the manners of those who might resort to this Temple of Science, to be re-distributed, in due time, through every part of the community; sources of jealousy and prejudice would be diminished, the features of national character would be multiplied, and greater extent given to social harmony. But above all, a well constituted Seminary, in the centre of the nation, is recommended by the consideration, that the additional instruction emanating from it would contribute not less to strengthen the foundations, than to adorn the structure, of our free and happy system of government.

Among the commercial abuses still committed under the American flag, and leaving in force my former reference to that subject, it appears that American citizens are in-

strumental in carrying on a traffick in enslaved Africans, equally in violation of the laws of humanity, and in defiance of those of their own country. The same just and benevolent motives which produced the interdiction in force against this criminal conduct, will doubtless be felt by Congress, in devising further means of suppressing the evil.

In the midst of uncertainties, necessarily connected with the great interests of the United States, prudence requires a continuance of our defensive and precautionary arrangements. The Secretary of War and the Secretary of the Navy will submit the statements and estimates which may aid Congress, in their ensuing provisions for the land and naval forces. The statements of the latter will include a view of the transfers of appropriations in the naval expenditures, and the grounds on which they were made.

The fortifications for the defence of our maritime frontier have been prosecuted according to the plan laid down in 1808. The works, with some exceptions, are completed, and furnished with ordnance. Those for the security of the city of New York, though far advanced towards completion, will require a further time and appropriation. This is the case with a few others, either not completed, or in need of repairs.

The improvements, in quality and quantity, made in the manufactory of cannon, and of small arms, both at the publick armories, and private factories, warrant additional confidence in the competency of these resources, for supplying the publick exigencies.

These preparations for arming the militia, having thus far provided for one of the objects contemplated by the power vested in Congress, with respect to that great bulwark of the publick safety, it is for their consideration, whether further provisions are not requisite, for the other contemplated objects of organization and discipline. To give to this great mass of physical and moral force, the efficiency which it merits and is capable of receiving, it is indispensable that they should be instructed and practised in the rules by which they are to be governed. Towards

an accomplishment of this important work, I recommend for the consideration of Congress the expediency of instituting a system, which shall, in the first instance, call into the field, at the publick expense, and for a given time, certain portions of the commissioned and non-commissioned officers. The instruction and discipline thus acquired, would gradually diffuse through the entire body of the militia that practical knowledge and promptitude for active service, which are the great ends to be pursued. Experience has left no doubt either of the necessity or of the efficacy of competent military skill, in those portions of an army, in fitting it for the final duties which it may have to perform.

The corps of engineers, with the military academy, are entitled to the early attention of Congress. The buildings at the seat, fixed by law, for the present academy, are so far in decay as not to afford the necessary accommodation. But a revision of the law is recommended, principally with a view to a more enlarged cultivation and diffusion of the advantages of such institutions, by providing professorships for all the necessary branches of military instruction, and by the establishment of an additional academy, at the seat of government, or elsewhere. The means by which war, as well for defence, as for offence, are now carried on, render these schools of the more scientifick operations an indispensable part of every adequate system. Even among nations whose large standing armies and frequent wars afford every other opportunity of instruction, these establishments are found to be indispensable, for the due attainment of the branches of military science, which require a regular course of study and experiment. In a government, happily without the other opportunities, seminaries, where the elementary principles of the art of war can be taught without actual war, and without the expense of extensive and standing armies, have the precious advantage of uniting an essential preparation against external danger, with a scrupulous regard to internal safety. In no other way, probably, can a provision, of equal effica-

cy for the publick defence, be made at so little expense, or more consistently with the publick liberty.

The receipts into the treasury during the year ending on the thirtieth of September last (and amounting to more than eight millions and a half of dollars) have exceeded the current expenses of the government, including the interest on the publick debt. For the purpose of reimbursing at the end of the year three million seven hundred and fifty thousand dollars of the principal, a loan, as authorized by law, had been negotiated to that amount; but has since been reduced to two million seven hundred and fifty thousand dollars; the reduction being permitted by the state of the treasury, in which there will be a balance remaining at the end of the year, estimated at two millions of dollars. For the probable receipts of the next year, and other details, I refer to statements which will be transmitted from the treasury, and which will enable you to judge what further provisions may be necessary for the ensuing years.

Reserving for future occasions, in the course of the session, whatever other communications may claim your attention, I close the present, by expressing my reliance, under the blessing of Divine Providence, on the judgment and patriotism which will guide your measures, at a period particularly calling for united councils, and inflexible exertions, for the welfare of our country, and by assuring you of the fidelity and alacrity with which my co-operation will be afforded.

JAMES MADISON.

DOCUMENTS

ACCOMPANYING THE MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, DEC. 5, 1810.

Extract of a Letter from Mr. Smith to Mr. Pinkney, dated Department of State, Jan. 20, 1810.

"In my letter to you of the 11th Nov. 1809, you were authorized to assure the British government, that the United States sincerely retained the desire which they have constantly professed to facilitate a friendly accommodation of all the existing differences between the two countries, and that nothing would be more agreeable to them than to find the successor of Mr. Jackson invested with all the authorities necessary for the accomplishing of so desirable an event, and, moreover, that if the attainment of this object through your agency should be considered more expeditious, or otherwise preferable, it would be a course entirely satisfactory to the United States.

"I am now charged by the President to transmit to you the enclosed letter, authorizing you to resume the negotiations with the British government under the full power that had been given, severally, and jointly, to you and Mr. Monroe. And in your discussions therein, you will be regulated by the instructions, heretofore given to Mr. Monroe and yourself. It is, however, not intended, that you should commence this negotiation until the requisite satisfaction shall have been made in the affair of the Chesapeake. And in the adjustment of this case, you will be guided by the instructions which you have heretofore received from this department in relation to it.

"It is moreover desirable, that preparatory to a treaty upon all the points of difference between the two countries, an arrangement should be made for the revocation of the orders in council. As it is uncertain what may be the ultimate measures of Congress at the present session, it cannot be expected that the President can, at this time,

state the precise condition to be annexed to a repeal of the orders in council: But, in general, you may assure the British government of his cordial disposition to exercise any power with which he may be invested, to put an end to acts of Congress, which would not be resorted to but for the orders in council, and at the same time, of his determination to keep them in force against France in case her decrees should not also be repealed."

[Enclosed in the foregoing letter.]

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, JAN. 20, 1810.

SIR,

THE President, anxious to adjust the existing differences between the United States and Great Britain, and deeming it expedient to make another effort for that purpose, has given it in charge to me to instruct you to renew negotiations in London under the commission, dated 12th May, 1806, authorizing Mr. Monroe and yourself, severally, as well as jointly, " to treat with the British government relative to wrongs committed between the parties on the high seas, or other waters, and for establishing the principles of navigation and commerce between them."

I have the honour to be, &c. R. SMITH.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, MAY 22, 1810.

SIR,

YOUR despatch of the 27th of March, by the British packet, was received on the 17th of this month.

The President has read with surprise and regret the answer of lord Wellesley to your letter of the 2d January, and also his reply to your note requiring explanations with respect to the blockade of France. The one indicates an apparent indifference as to the character of the diplomatick intercourse between the two countries, and the other evinces an inflexible determination to persevere in their system of blockade.

The provision made for the diplomatick agency, which is to succeed that of Mr. Jackson, manifests a dissatisfaction at the step necessarily taken here with regard to that minister, and at the same time a diminution of the respect heretofore attached to the diplomatick relations between the two countries. However persevering the President may be in the conciliatory disposition which has constantly governed him, he cannot be inattentive to such an apparent departure from it on the other side, nor to the duty imposed on him by the rules of equality and reciprocity applicable in such cases. It will be very agreeable to him to find that the provision in question is intended merely to afford time for a satisfactory choice of a plenipotentiary successor to Mr. Jackson, and that the mode of carrying it into effect may be equally unexceptionable. But whilst, from the language of the marquis Wellesley, with respect to the designation of a charge d'affairs, and from the silence as to any other successor to the recalled minister, it is left to be inferred that the former alone is in contemplation, it becomes proper to ascertain what are the real views of the British government on the occasion; and should they be such as they are inferred to be, to meet them by a correspondent change in the diplomatick establishment of the United States at London. The President relies on your discretion for obtaining the requisite knowledge of this subject in a manner that will do justice to the friendly policy which the United States wish to be reciprocal in every instance between the two nations. But in the event of its appearing that the substitution of a charge d'affairs for a minister plenipotentiary, is to be of a continuance not required or explained by the occasion, and consequently justifying the inference drawn from the letter of lord Wellesley, the respect which the United States owe to themselves will require that you return to the United States, according to the permission hereby given by the President, leaving charged with the business of the legation such person as you may deem most fit for the trust. With this view a commission, as required by a statute of

the last session, is herewith enclosed, with a blank for a secretary of legation. But this step you will not consider yourself as instructed to take in case you should have commenced, with a prospect of a satisfactory result, the negotiation authorized by my letter of the 20th January.

In a letter of the 4th of this month, I transmitted to you a copy of the act of Congress, at their last session, concerning the commercial intercourse between the United States and Great Britain and France. You will herewith receive another copy of the same act. In the fourth section of this statute you will perceive a new modification of the policy of the United States, and you will let it be understood by the British government that this provision will be duly carried into effect on the part of the United States.

A satisfactory adjustment of the affair of the Chesapeake is very desirable. The views of the President upon this delicate subject you may collect not only from the instructions heretofore given to you, but from the sentiments that had been manifested on the part of this government in the discussion with Mr. Rose, and from the terms and conditions contained in the arrangement made with Mr. Erskine. And conformably with these views, thus to be collected, you will consider yourself hereby instructed to negotiate and conclude an arrangement with the British government in relation to the attack on the frigate Chesapeake. I have the honour to be, &c.

(*Signed*) R. SMITH.

Wm. Pinkney, Esq. &c. &c. &c. London.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, JULY 2, 1810.

SIR,

Your several letters of the 8th and 9th of April, and 2d and 3d of May, have been received.

Whilst it was not known, on the one hand, how far the French government would adhere to the apparent import of the condition, as first communicated, on which the Ber-

lin decree would be revoked, and, on the other hand, what explanations would be given by the British government with respect to its blockades prior to that decree, the course deemed proper to be taken was that pointed out in my letter to you of the 11th of November, and in that to general Armstrong of the 1st of December. The precise and formal declaration since made by the French government, that the condition was limited to the blockades of France, or parts of France, of a date prior to the date of the Berlin decree, and the acknowledgment by the British government of the existence of such blockades, particularly that of May, 1806, with a failure to revoke it, or even to admit the constructive extinguishment of it, held out in your letter to the Marquis Wellesley, give to the subject a new aspect and a decided character.

As the British government had constantly alleged that the Berlin decree was the original aggression on our neutral commerce, that her orders in council were but a retaliation on that decree, and had, moreover, on that ground, asserted an obligation on the United States to take effectual measures against the decree, as a preliminary to a repeal of the orders, nothing could be more reasonable than to expect, that the condition, in the shape last presented, would be readily accepted. The President is, therefore, equally disappointed and dissatisfied at the abortiveness of your correspondence with lord Wellesley on this important subject. He entirely approves the determination you took to resume it, with a view to the special and immediate obligation lying on the British government to cancel the illegal blockades; and you are instructed, in case the answer to your letter of the 30th of April should not be satisfactory, to represent to the British government, in terms temperate but explicit, that the United States consider themselves authorized by strict and unquestionable right, as well as supported by the principles heretofore applied by Great Britain to the case, in claiming and expecting a revocation of the illegal blockades of France, of a date prior to that of the Berlin decree, as preparatory to a further demand of the revocation of that decree.

It ought not to be presumed that the British government, in reply to such a representation, will contend that a blockade, like that of May, 1806, from the Elbe to Brest, a coast of not less than one thousand miles, proclaimed four years since, without having been at any time attempted to be duly executed by the application of a naval force, is a blockade conformable to the law of nations and consistent with neutral rights. Such a pretext is completely barred not only by the unanimous authorities both of writers and of treaties on this point, not excepting even British treaties, but by the rule of blockade, communicated by that government to this in the year 1804, in which it is laid down that orders had been given not to consider any blockade of those islands (Martinique and Guadaloupe) as existing, unless in respect of particular ports which may be actually invested; and then not to capture vessels bound to such ports unless they shall previously have been warned not to enter them, and that they (the lords of the admiralty) had also sent the necessary directions on the subject to the judges of the vice admiralty courts in the West Indies and America. In this communication it is expressly stated, that the rule to the British courts and cruisers was furnished in consequence of the representations made by the government of the United States against blockades not unlike that now in question, and with the express view of redressing the grievance complained of. Nor ought it to be presumed that the British government will formally resort to the plea that her naval force, although unapplied, is adequate to the enforcement of the blockade of May, 1806, and that this forms a legal distinction between that and the Berlin decree of November following. Were it admitted that an adequate force existed, and was applicable to such a purpose, the absurdity of confounding the power to do a thing with the actually doing of it speaks for itself. In the present case the absurdity is peculiarly striking. A port blockaded by sea without a ship near it, being a contradiction in terms as well as a perversion of law and of common sense.

From the language of lord Wellesley's two letters, it is possible he may endeavour to evade the measure required, by subtle comments on the posture given to the blockade of May, 1806, by the succeeding orders of 1807. But even here he is met by the case of the blockade of Copenhagen and the other ports of Zealand in the year 1808—at a time when these, with all Danish ports, were embraced by those very orders of 1807—a proof that however the orders and blockades may be regarded as in some respects the same, they are regarded in others as having a distinct operation, and may consequently co-exist, without being absolutely merged in, or superseded, the one by the other.

In the difficulty which the British government must feel in finding a gloss for the extravagant principle of her paper blockades, it may perhaps wish to infer an acquiescence on the part of this government, from the silence under which they have, in some instances, passed. Should a disposition to draw such an inference show itself, you will be able to meet it by an appeal not only to the successful remonstrance in the letter to Mr. Thornton, above cited, but to the answer given to Mr. Merry, of June, 1806, to the notification of a blockade in the year 1806, as a precise and authentick record of the light in which such blockades, and the notification of them, were viewed by the United States. Copies of the answer have been heretofore forwarded, and another is now enclosed, as an additional precaution against miscarriage.

Whatever may be the answer to the representation and requisition which you are instructed to make, you will transmit it without delay to this department. Should it be of a satisfactory nature, you will hasten to forward it also to the diplomatick functionary of the U. States at Paris, who will be instructed to make a proper use of it for obtaining a repeal of the French decree of Berlin, and to proceed, concurrently with you, in bringing about successive removals by the two governments of all their predatory edicts. I avail myself of this occasion to state to you, that it is deemed of great importance that our ministers at foreign courts, and

especially at Paris and London, should be kept, the one by the other, informed of the state of our affairs at each.

I have the honour to be, &c.

(*Signed*) R. SMITH.

William Pikney, Esq. &c. &c. &c.

Mr. Madison to Mr. Thornton, charge des affairs of his Britannic majesty.

DEPARTMENT OF STATE, OCT. 27, 1803.

SIR,

The letters of which copies are enclosed, were received last evening. One of them is from the British consul general at New York; the other, a copy enclosed therein, of a letter to him from commodore Hood, commander in chief of his Britannic majesty's ships of war on a West India station. The letter bears date of the 25th of July last, and requests that the American government and agents of neutral nations might be made acquainted, that the islands of Martinique and Guadaloupe are, and have been blockaded from the 17th of June, preceding, by detachments from the squadron under his command; in order that there may be no plea for attempting to enter the ports of those islands.

It will, without doubt, occur to you, sir, that such a communication would have been more properly made through another channel, than directly from the consulate at New York. The importance and urgency of the subject however supersede the consideration of forms, and I lose no time in communicating to you the observations which the President deems it to require.

It will not escape your attention, that commodore Hood's letter is dated no less than three months before it could have the effect of a notification, and that besides this remarkable delay, the alleged blockade is computed from a date more than one month prior to that of the letter itself. But these circumstances, however important it may be, do not constitute the main objection to the proceeding of the British commander. His letter, instead of stating that a

particular port or ports were blockaded, by a force actually before them, declares, generally, two entire and considerable islands to be in a state of blockade. It can never be admitted that the trade of a neutral nation in articles not contraband can be legally obstructed to any place not actually blockaded, or that any notification or proclamation can be of force, unless accompanied with an actual blockade. The law of nations is perhaps more clear on no other point than of that of a siege or blockade, such as will justify a belligerent nation in restraining the trade of neutrals. Every term, used in defining the case, imports the presence and position of a force, rendering access to the prohibited place manifestly difficult and dangerous. Every jurist of reputation, who treats with precision this branch of the law of nations, refers to an actual and particular blockade. Not a single treaty can be found which undertakes to define a blockade, in which the definition does not exclude a general or nominal blockade, by limiting it to the case of a sufficient force so disposed as to amount to an actual and particular blockade. To a number of such treaties Great Britain is a party. Not to multiply references on the subject, I confine myself to the fourth article of the convention, of June, 1801, between Great Britain and Russia, which having been entered into for the avowed purpose "*of settling an invariable determination of their principles upon the rights of neutrality,*" must necessarily be considered as a solemn recognition of an existing and general principle and right, not as a stipulation of any new principle or right limited to the parties themselves. The article is in the words following: "That in order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the dispositions of the power which attacks it with ships stationary or sufficiently near, an evident danger of entering." It cannot be necessary to dwell on the inconsistency of the kind of blockade declared by commodore Hood, with the principle laid down concerning the rights of neutrality; or on the consequences of the principle on which a blockade of whole islands by a few ships is

founded, to the commerce and interests of neutral nations. If the islands of Martinique and Guadaloupe, the latter not less than two hundred and fifty, and the former nearly one hundred and fifty miles in circumference, and each containing a variety of ports, can be blockaded by detachments from a commodore's squadron, it is evident that a very inconsiderable portion of the British fleet may blockade all the maritime countries with which she is at war. In a word, such a principle completely sacrifices the rights of neutral commerce to the pleasure or the policy of the parties at war. But it deserves to be particularly remarked, that a power, to proclaim general blockades, or any blockade not formed by the real presence of a sufficient force, to be exercised by officers at a distance from the control of their government, and deeply interested in enlarging the field of captures which they are to share, offers a temptation that must often aggravate the evils incident to the principle itself. You will infer, sir, from these observations, the serious light in which the President regards the proceeding which is the subject of them; and will perceive the grounds on which the injuries accruing from it to our commerce, will constitute just claims of indemnification from the British government. To diminish the extent of these injuries as much as possible, and to guard the good understanding and friendly relations of every sort, which are so desirable to both nations, against the tendency of such measures, will, I venture to assure myself, be sufficient motives with you to employ the interpositions with commodore Hood, which you may judge best adapted to the nature of the case.

I have the honour to be, &c.

(*Signed*) JAMES MADISON.

Edward Thornton, Esq. &c. &c. &c.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, JULY 5, 1810.

SIR,

Your last communications having afforded so little ground for expecting, that the British government will

have yielded to the call on it to originate the annulment of the belligerent edicts against our lawful commerce, by cancelling the spurious blockade of May, 1806, (the first in the series) it became a duty, particularly incumbent upon us, to press the other experiment held out in the late act of Congress, another copy of which is herewith sent. You will accordingly make that act, and the disposition of the President to give it effect, the subject of a formal communication.

The British government ought not to be insensible of the tendency of superadding, to a refusal of the course proposed by France for mutually abolishing the predatory edicts, a refusal of the invitation held out by Congress; and it ought to find in that consideration a sufficient inducement to a prompt and cordial concurrence. The British government must be conscious also of its having repeatedly stated, that the acquiescence by the United States in the decrees of France, was the only justification of its orders against our neutral commerce. The sincerity and consistency of Great Britain being now brought to the test, an opportunity is afforded to evince the existence of both. It may be added, that the form in which it is prescribed is as conciliatory as the proposal itself is unexceptionable.

As the act of Congress, repealing the late restrictions on the commerce of the United States with the two belligerents, must be unequal in its operation, in case Great Britain should continue to interrupt it with France, inasmuch as France is unable to interrupt it materially with her, the British government may feel a temptation to decline a course which might put an end to this advantage. But if the unworthiness and unfriendliness of such a purpose should not divert her from it, she ought not to overlook either the opportunity afforded her enemy of retorting the inequality, by a previous compliance with the act of Congress, or the necessity to which the United States may be driven, by such an abuse of their amicable advances, to resume, under new impressions, the subject of their foreign relations.

If the British government should be disposed to meet in a favourable manner the arrangement tendered, and should ask for explanations, as to the extent of the repeal of the French decrees which will be required, your answer will be as obvious as it must be satisfactory. The repeal must embrace every part of the French decrees which violate the neutral rights guaranteed to us by the law of nations. Whatever parts of the decrees may not have this effect, as we have no right, as a neutral nation, to demand a recall of them, Great Britain can have no pretext, as a belligerent nation, to urge the demand. If there be parts of the decrees liable to objections of another kind, it lies with the United States alone to decide on the mode of proceeding with respect to them.

In explaining the extent of the repeal, which, on the British side, is required, you will be guided by the same principle. You will accordingly let it be distinctly understood, that it must necessarily include an annulment of the blockade of May, 1806, which has been avowed to be comprehended in, and identified with the orders in council; and which is palpably at variance with the law of nations. This is the explanation which will be given to the French government on this point by our minister at Paris, in case it should there be required.

But there are plain and powerful reasons why the British government ought to revoke every other blockade, resting on proclamations or diplomatick notifications, and not on the actual application of a naval force adequate to a real blockade.

1st. This comprehensive redress is equally due from the British government to its professed respect for the laws of nations, and to the just claims of a friendly power.

2d. Without this enlightned precaution, it is probable, and may indeed be inferred from the letter of the duke of Cadore to General Armstrong, that the French government will draw Great Britain and the United States to issue on the legality of such blockades, by acceding to the act of Congress, with a condition, that a repeal of the

blockades shall accompany a repeal of the orders in council, alleging, that the orders and blockades, differing little, if at all, otherwise than in name, a repeal of the former, leaving in operation the latter, would be a mere illusion.

3d. If it were even to happen, that a mutual repeal of the orders and decrees could be brought about without involving the subject of blockades, and with a continuance of the blockades in operation, how could the United States be expected to forbear an immediate call for their annulment, or how long would it probably be before an appeal by France to the neutral law of impartiality would bring up the same question between the United States and Great Britain? and from whatever circumstances the issue on it may arise, the impossibility of maintaining the British side, with even a colour of right or consistency, may be seen in the view taken of the subject, in the correspondence with Mr. Thornton and Mr. Merry, already in your hands.

If the British government should accede to the overture, contained in the act of Congress, by repealing or so modifying its edicts as that they will cease to violate our neutral rights, you will transmit the repeal, properly authenticated, to general Armstrong, and if necessary, by a special messenger, and you will hasten to transmit it also to this department. With great respect, &c.

(*Signed*) R. SMITH.

William Pinkney, Esq. &c. &c.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, JULY 17, 1810.

SIR,

You will herewith receive duplicates of my letters to you of the 13th, 16th and 30th June, and 2d and 5th July.

This despatch you will receive from lieutenant Spence, of the navy, who is to proceed from New York, in the sloop of war the Hornet. This publick vessel has been ordered to England and to France, not only for the purpose of transmitting despatches to you and to our functionaries at Paris, but for the further purpose of affording you, as well

as him, a safe opportunity of conveying to this department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the governments of England and France. And with a view to ensure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe after the first day of October next. With respect therefore to the time you will detain Mr. Spence in London, you will be influenced by the information which you may receive from him, as to the orders he may have from the commanding officer of the Hornet.

I have the honour, &c. &c.

(*Signed*) R. SMITH.

William Pinkney, Esq. &c. &c. &c.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, OCT. 19, 1810.

SIR,

Your despatch of the 24th of August, enclosing a newspaper statement of a letter from the duke of Cadore to general Armstrong, notifying a revocation of the Berlin and Milan decrees, has been received. It ought not to be doubted that this step of the French government will be followed by a repeal, on the part of the British government, of its orders in council. And if a termination of the crisis between Great Britain and the United States be really intended, the repeal ought to include the system of paper blockades, which differ in name only from the retaliatory system comprised in the orders in council. From the complexion of the British prints, not to mention other considerations, the paper blockades may however not be abandoned. There is hence a prospect that the United States may be brought to issue with Great Britain on the legality of such blockades. In such case, as it cannot be expected that the United States, founded as they are in law and in right, can acquiesce in the validity of the British practice, it lies with the British government to remove the difficulty. In addition to the considerations heretofore

stated to you in former letters, you may bring to the view of the British government the retrospective operation of those diplomatick notifications of blockades, which consider a notice to the minister as a notice to his government, and to the merchants, who are at a distance of three thousand miles. It will recur to your recollection, that the present ministry, in the debates of parliament, in opposition to the authors of the orders of January, 1807, denied that they were warranted by the law of nations. The analogy between these orders and the blockade of May, 1806, in so far as both relate to a trade between enemy ports, furnishes an appeal to the consistency of those now in office, and an answer to attempts by them to vindicate the legality of that blockade. It is remarkable, also, that this blockade is founded on "the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of British subjects." What are those means? In what respect do they violate our *neutral* rights? Are they still in operation? It is believed that true answers to these questions will enforce the obligation of yielding to our demands on this subject. You may also refer the British government to the characteristick definition of a blockaded port, as set forth in their treaty with Russia, of June, 1801, the preamble of which declares, that one of its objects was to settle "an invariable determination of their principles upon the *rights of neutrality*."

Should the British government unexpectedly resort to the pretext of an acquiescence on the part of the United States in their practice, it may be remarked, that prior to, as well as during the present administration, this government has invariably protested against such pretensions; and in addition to other instances heretofore communicated to you, I herewith transmit to you an extract of a letter to the department of state, of July 15, 1799, from Mr. King, our minister at London, and also such part of Mr. Marshall's letter to him, of the 20th September, 1800, as relates to the subject of blockades. And it may moreover be urged, that the principle now contended for by the

United States was maintained against others, as well as Great Britain, as appears from the accompanying copy of the letter to our minister at Madrid in the year 1801. To this principle the United States also adhered when a belligerent, as in the case of the blockade of Tripoli, as will be seen by the annexed letter from the navy department. You will press on the justice, friendship and policy of Great Britain, such a course of proceeding as will obviate the dilemma resulting to the United States from a refusal to put an end to the paper blockades, as well as the orders in council.

The necessity of revoking the blockade of Copenhagen, as notified to you in May, 1808, will not escape your attention. Its continuance may embarrass us with Denmark, if not with France.

Your answer as to the Corfu blockade is approved; and should the answer to it render a reply necessary, the President directs you to remonstrate against such a blockade, availing yourself, as far as they may be applicable, of the ideas in the letter to Mr. Charles Pinkney, of October, 1801, and particularly of the proof it affords of our early remonstrance against the principle of such blockades.

No communication having yet been made by general Armstrong of a letter to him from the duke of Cadore, declaring that the Berlin and Milan decrees will cease to be in force from the first day of November next, I can at this time only inform you, that if the proceedings of the French government, when officially received, should correspond with the printed letter of the duke of Cadore, enclosed in your despatch, you will let the British government understand, that on the first day of November the President will issue his proclamation, conformably to the act of Congress, and that the non-intercourse law will consequently be revived against Great Britain. And if the British government should not, with the early notice received of the repeal of the French decrees, have revoked all its orders which violate our neutral rights, it should not be overlooked that Congress, at their approaching session,

may be induced not to wait for the expiration of the three months, (which were allowed on the supposition that the first notice might pass through the United States) before they give effect to the renewal of the non-intercourse. This consideration ought to have its weight, in dissuading the British government from the policy, in every respect misjudged, of procrastinating the repeal of its illegal edicts.

If the British government be sincerely disposed to come to a good understanding, and to cultivate a friendly intercourse with the United States, it cannot but be sensible of the necessity, in addition to a compliance with the act of Congress, of concluding at this time a general arrangement of the topicks between the two countries; and, above all, such an one as will upon equitable terms, effectually put a stop to the insufferable vexations to which our seamen have been, and yet are exposed, from the British practice of impressment; a practice which has so strong a bearing on our neutrality, and to which no nation can submit consistently with its independency. To this very interesting subject you will therefore recall the attention of the British government, and you will accordingly consider yourself hereby authorized to discuss and adjust the same separately, conformably to the instructions in my letter to you of the 20th January last, on the condition, however, contained in that letter, namely, that the requisite atonement shall have been previously made in the case of the outrage on the Chesapeake. But, as in this case every admissible advance has been exhausted on the part of the United States, it will be improper to renew the subject to the British government, with which it must lie to come forward with the requisite satisfaction to the United States. You will therefore merely evince a disposition to meet, in a conciliatory form, any overtures that may be made on the part of the British government.

The British government having so long omitted to fulfil the just expectations of the United States, in relation to a successor to Mr. Jackson, notwithstanding the reiterated

assurances to you of such an intention, has no claims to further indulgence. On the receipt of this letter, therefore, should the appointment of a plenipotentiary successor not have been made and communicated to you, you will let your purpose be known of returning to the United States, unless, indeed, the British government should have unequivocally manifested a disposition to revoke their orders in council, conformably to the act of Congress of May last, and our affairs with them should have accordingly taken so favourable a turn as to justify, in your judgment, a further suspension of it. I have the honour, &c. &c.

(*Signed*) R. SMITH.

Wm. Pinkney, Esq. &c. &c. &c.

Extract of a Letter from Mr. King, minister plenipotentiary of the United States, at London, to Mr. Pickering, Secretary of State, dated London, July 15, 1799.

"Seven or eight of our vessels, laden with valuable cargoes, have been lately captured, and are still detained for adjudication; these vessels were met in their voyages to and from the Dutch ports declared to be blockaded. Several notes have passed between lord Grenville and me upon this subject, with the view, on my part, of establishing a more limited and reasonable interpretation of the law of blockade than is attempted to be enforced by the English government. Nearly one hundred Danish, Russian, and other neutral ships, have, within a few months, been in like manner intercepted going to and returning from the United Provinces. Many of them, as well as some of ours, arrived in the Texel in the course of the last winter, the severity of which obliged the English fleet to return to their ports, leaving a few frigates only to make short cruises off the Texel as the season would allow.

My object has been to prove that in this situation of the investing fleet there can be no effective blockade, which, in my opinion, cannot be said to exist without a competent force stationed and present at or near the entrance of the blockaded port."

Extract of a Letter from Mr. King to Lord Grenville, dated Downing street, London, May 23, 1799.

"It seems scarcely necessary to observe, that the presence of a competent force is essential to constitute a blockade; and although it is usual for the belligerent to give notice to neutral nations when he institutes a blockade, it is not customary to give any notice of its discontinuance; and that consequently the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade; in like manner as the actual investment of a besieged place is the only evidence by which we decide whether the siege is continued or raised. A siege may be commenced, raised, recommenced, and raised again, but its existence at any precise time must always depend upon the fact of the presence of an investing army. This interpretation of the law of blockade is of peculiar importance to nations situated at a great distance from each other, and between whom a considerable length of time is necessary to send and receive information."

Extract of a Letter from Mr. Marshall, Secretary of State, to Mr. King, dated Sept. 20, 1800.

"2dly. The right to confiscate vessels bound to a blockaded port, has been unreasonably extended to cases not coming within the rule, as heretofore adopted.

On principle it might well be questioned, whether this rule can be applied to a place not completely invested by land as well as by sea. If we examine the reasoning on which is founded the right to intercept and confiscate supplies designed for a blockaded town, it will be difficult to resist the conviction, that its extension to towns invested by sea only is an unjustifiable encroachment on the rights of neutrals. But it is not of this departure from principle, a departure which has received some sanction from practice, that we mean to complain. It is, that ports, not

effectually blockaded by a force capable of completely investing them, have yet been declared in a state of blockade, and vessels attempting to enter therein have been seized, and on that account confiscated.

This is a vexation proceeding directly from the government, and which may be carried, if not resisted, to a very injurious extent. Our merchants have greatly complained of it with respect to Cadiz and the ports of Holland.

If the effectiveness of the blockade be dispensed with, then every port of all the belligerent powers may, at all times, be declared in that state, and the commerce of neutrals be thereby subjected to universal capture. But if this principle be strictly adhered to, the capacity to blockade will be limited by the naval force of the belligerent, and, of consequence, the mischief to neutral commerce cannot be very extensive. It is, therefore, of the last importance to neutrals, that this principle be maintained unimpaired.

I observe that you have pressed this reasoning on the British minister, who replies, that an occasional absence of a fleet from a blockaded port ought not to change the state of the place.

Whatever force this observation may be entitled to, where that occasional absence has been produced by accident, as a storm, which for a moment blows off the fleet, and forces it from its station, which station it immediately resumes, I am persuaded, that where a part of the fleet is applied, though only for a time, to other objects, or comes into port, the very principle, requiring an effective blockade, which is, that the mischief can then only be co-extensive with the naval force of the belligerent, requires, that during such temporary absence the commerce of neutrals to the place should be free."

Extract of a Letter from Mr. Madison to Mr. Charles Pinkney, minister plenipotentiary of the United States, at Madrid, dated Department of State, Washington, Oct. 25, 1801.

"The pretext for the seizure of our vessels seems at present to be, that Gibraltar has been proclaimed in a state

of blockade, and that the vessels are bound to that port. Should the proceeding be avowed by the Spanish government, and defended on that ground, you will be able to reply:

1st. That the proclamation was made as far back as the 15th February, 1800, and has not since been renewed; that it was immediately protested against by the American and other neutral ministers at Madrid, as not warranted by the real state of Gibraltar, and that no violations of neutral commerce having followed the proclamation, it was reasonably concluded to have been rather a menace against the enemies of Spain, than a measure to be carried into execution against her friends.

2d. That the state of Gibraltar is not, and never can be admitted by the United States to be that of a real blockade. In this doctrine they are supported by the law of nations, as laid down in the most approved commentators, by every treaty which has undertaken to define a blockade, particularly* those of latest date among the maritime nations of Europe, and by the sanction of Spain herself, as a party to the armed neutrality in the year 1781. The spirit of articles XV. and XVI. of the treaty between the United States and Spain, may also be appealed to as favouring a liberal construction of the rights of the parties in such cases. In fact, this idea of an investment, a siege or a blockade, as collected from the authorities referred to, necessarily results from the force of those terms; and though it has been sometimes grossly violated or evaded by powerful nations in pursuit of favourite objects, it has invariably kept its place in the code of publick law, and cannot be shown to have been expressly renounced in a single stipulation between particular nations.

3d. That the situation of the naval force at Algesiras, in relation to Gibraltar, has not the shadow of likeness to a blockade, as truly and legally defined. This force can neither be said to invest, besiege or blockade the garrison,

* See late treaties between Russia and Sweden, and between Russia and Great Britain.

nor to guard the entrance into the port. On the contrary, the gun boats infesting our commerce have their stations in another harbour, separated from that of Gibraltar by a considerable bay; and are so far from beleaguering their enemy at that place, and rendering the entrance into it dangerous to others, that they are, and ever since the proclamation of the blockade have been, for the most part, kept at a distance by a superior naval force, which makes it dangerous to themselves to approach the spot.

4th. That the principle on which the blockade of Gibraltar is asserted, is the more inadmissible, as it may be extended to every other place, in passing to which vessels must sail within the view and reach of the armed boats belonging to Algesiras. If, because a neutral vessel bound to Gibraltar can be annoyed and put in danger by waylaying cruisers, which neither occupy the entrance into the harbour nor dare approach it, and by reason of that danger is liable to capture, every part of the Mediterranean coasts and islands, to which neutral vessels must pass through the same danger, may with equal reason be proclaimed in a state of blockade, and the neutral vessels bound thereto made equally liable to capture: Or if the armed vessels from Algesiras alone, should be insufficient to create this danger in passing into the Mediterranean, other Spanish vessels, co-operating from other stations, might produce the effect, and the ports thereby not only blockade any particular port or of any particular nation, but blockade at once a whole sea surrounded by many nations. Like blockades might be proclaimed by any particular nation, enabled by its naval superiority to distribute its ships at the mouth of the same, or any similar sea, or across channels or arms of the sea, so as to make it dangerous for the commerce of other nations to pass to its destination. These monstrous consequences condemn the principle from which they flow, and ought to unite against it every nation, Spain among the rest, which has an interest in the rights of the sea. Of this, Spain herself appears to

have been sensible in the year 1780, when she yielded to Russia ample satisfaction for seizures of her vessels made under the pretext of a general blockade of the Mediterranean, and followed it with her accession to the definition of a blockade contained in the armed neutrality.

5th. That the United States have the stronger ground for remonstrating against the annoyance of her vessels, on their way to Gibraltar, inasmuch as, with very few exceptions, their object is not to trade there for the accommodation of the garrison, but merely to seek advice or convoy, for their own accommodation, in the ulterior objects of their voyage. In disturbing their course to Gibraltar, therefore, no real detriment results to the enemy of Spain, whilst a heavy one is committed on her friends. To this consideration it may be added, that the real object of the blockade is, to subject the enemy to privations, which may co-operate with external force in compelling them to surrender; an object which cannot be alleged in a case, where it is well known that Great Britain can, and does at all times, by her command of the sea, secure to the garrison of Gibraltar every supply which it wants.

6th. It is observable that the blockade of Gibraltar is rested by the proclamation, on two considerations: one, that it is necessary to prevent illicit traffick, by means of neutral vessels, between Spanish subjects and the garrison there; the other, that it is a just reprisal on Great Britain for the proceedings of her naval armaments against Cadiz and St. Lucar. The first can surely have no weight with neutrals, but on a supposition, never to be allowed, that the resort to Gibraltar, under actual circumstances, is an indulgence from Spain, not a right of their own; the other consideration, without examining the analogy between the cases referred to and that of Gibraltar, is equally without weight with the United States, against whom no right can accrue to Spain from its complaints against Great Britain; unless it could be shown that the United States were in an unlawful collusion with the latter; a charge

which they well know that Spain is too just and too candid to insinuate. It cannot even be said that the United States have acquiesced in the depredations committed by Great Britain, under whatever pretexts, on their lawful commerce. Had this indeed been the case, the acquiescence ought to be regarded as a sacrifice made by prudence to a love of peace, of which all nations furnish occasional examples, and as involving a question between the United States and Great Britain, of which no other nation could take advantage against the former. But it may be truly affirmed, that no such acquiescence has taken place. The United States have sought redress for injuries from Great Britain as well as from other nations. They have sought it by the means which appeared to themselves, the only rightful judges, to be the best suited to their object; and it is equally certain, that redress has in some measure been obtained, and that the pursuit of complete redress is by no means abandoned.

7th. Were it admitted that the circumstances of Gibraltar, in February, 1800, the date of the Spanish proclamation, amounted to a real blockade, and that the proclamation was therefore obligatory on neutrals; and were it also admitted that the present circumstances of that place amount to a real blockade, (neither of which can be admitted,) still the conduct of the Algesiras cruisers is altogether illegal and unwarrantable. It is illegal and unwarrantable, because the force of the proclamation must have expired whenever the blockade was actually raised, as must have been unquestionably the case since the date of the proclamation, particularly and notoriously when the port of Algesiras itself was lately entered and attacked by a British fleet, and because, on a renewal of the blockade, either a new proclamation ought to have issued, or the vessels making for Gibraltar ought to have been pre-monished of their danger, and permitted to change their course as they might think proper. Among the abuses committed under pretext of war, none seem to have been carried to greater extravagance, or to threaten greater mischief

to neutral commerce, than the attempts to substitute fictitious blockades by proclamation, for real blockades formed according to the law of nations; and consequently none against which it is more necessary for neutral nations to remonstrate effectually, before the innovations acquire maturity and authority from repetitions on one side, and silent acquiescence on the other."

Mr. Smith, Secretary of the Navy, to Commodore Preble.

NAVY DEPARTMENT, FEB. 4, 1804.

SIR,

YOUR letter of the 12th November, enclosing your circular notification of the blockade of the port of Tripoli, I have received.

Sensible, as you must be, that it is the interest, as well as the disposition of the United States, to maintain the rights of neutral nations, you will, I trust, cautiously avoid whatever may appear to you to be incompatible with those rights. It is however deemed necessary, and I am charged by the President to state to you, what, in his opinion, characterizes a blockade. I have therefore to inform you, that the trade of a neutral in articles not contraband, cannot be rightfully obstructed to any port, not actually blockaded by a force so disposed before it, as to create an evident danger of entering it. Whenever therefore you shall have thus formed a blockade of the port of Tripoli, you will have a right to prevent any vessel from entering it, and to capture for adjudication, any vessel that shall attempt to enter the same, with a knowledge of the existence of the blockade. You will however not take as prize any vessel, attempting to enter the port of Tripoli, without such knowledge; but in every case of an attempt to enter, without a previous knowledge of the existence of the blockade, you will give the commanding officer of such vessel notice of such blockade, and forewarn him from entering. And if, after such a notification, such vessel should again attempt to enter the same port, you will be justifiable in sending her into port for adjudication. You will, sir, hence perceive

that you are to consider your circular communication to the neutral powers, not as an evidence that every person attempting to enter has previous knowledge of the blockade, but merely as a friendly notification to them of the blockade, in order that they might make the necessary arrangements for the discontinuance of all commerce with such blockaded port. I am, &c. &c.

(*Signed*) R. SMITH.

Commodore PREBLE.

Extracts from a Letter of Mr. Smith to Mr. Pinkney, dated Department of State, Nov. 2, 1810.

"WITH the duplicate of my letter to you of the 19th ult. I now send you a copy of the President's proclamation, founded on the repeal of the Berlin and Milan decrees. Enclosed you will also receive a copy of my letter to general Armstrong, of this day, which will afford you a view of the reservations and understanding under which this proclamation has been issued.

"To the copy of the proclamation herewith transmitted in relation to West Florida, and to my letter to general Armstrong touching the same, I refer you for information as to the views of this government in taking possession of that country, and as to the considerations which had constrained the President at this juncture to resort to this measure.

"This despatch will be delivered to you by one of the officers of the United States frigate Essex, who will have orders to return to his ship as soon as he shall have received such letters as you may deem it necessary to transmit to this department."

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, NOV. 15, 1810.

SIR,

FROM a review of the conduct of the British government, in relation to a plenipotentiary successor to Mr.

Jackson, as presented in your several communications, including even those brought by the Hornet, at which date and on which inviting occasion the subject does not appear to have been within the attention of the government, the President thinks it improper that the United States should continue to be represented at London by a minister plenipotentiary. In case, therefore, no appointment of a successor to Mr. Jackson of that grade should have taken place at the receipt of this letter, you will consider your functions as suspended, and you will accordingly take your leave of *absence*, charging a fit person with the affairs of the legation.

Considering the season at which this instruction may have its effect, and the possibility of a satisfactory change in the posture of our relations with Great Britain, the time of your return to the United States is left to your discretion and convenience. I have the honour, &c. &c.

(*Signed*) R. SMITH.

Wm. Pinkney, Esq. &c. &c.

Mr. Smith to General Armstrong.

DEPARTMENT OF STATE, JUNE 5, 1810.

SIR,

Your letters of the 17th, 18th, and 21st February, and 10th, 15th, 21st, and 24th March, with their several enclosures, were received on the 21st May.

As the John Adams is daily expected, and as your further communications by her will better enable me to adapt to the actual state of our affairs with the French government, the observations proper to be made in relation to their seizure of our property, and to the letter of the duke of Cadore of the 14th of February, it is by the President deemed expedient not to make at this time any such animadversions. I cannot, however, forbear informing you, that a high indignation is felt by the President, as well as by the publick, at this act of violence on our property, and at the outrage, both in the language and in the matter, of the let-

ter of the duke of Cadore, so justly portrayed in your note to him of the 10th of March.

The particular object of this letter is to add to my despatches of the 4th and 22d May, another chance of hastening into your hands a copy of the act of Congress of the last session, concerning the commercial intercourse between the United States and Great Britain and France.

In the fourth section of this act you will perceive a new modification of the authority given to the President. If there be sincerity in the language held at different times by the French government, and, especially, in the late overture to proceed to amicable and just arrangements in case of our refusal to submit to the British orders in council, no pretext can be found for longer declining to put an end to the decrees of which the United States have so justly complained. By putting in force, agreeably to the terms of this statute, the non-intercourse against Great Britain, the very species of resistance would be made which France has been constantly representing as most efficacious. It may be added, that the form in which the law now presents the overture is as well calculated, as the overture itself, to gain a favourable attention, inasmuch as it may be regarded by the belligerent, first accepting it, as a promise to itself, and a threat only to its adversary.

If, however, the arrangement contemplated by the law should be acceptable to the French government, you will understand it to be the purpose of the President not to proceed in giving it effect, in case the late seizure of the property of the citizens of the United States has been followed by an absolute confiscation, and restoration be finally refused. The only ground, short of a preliminary restoration of the property, on which the contemplated arrangement can be made, will be an understanding that the confiscation is reversible, and that it will become immediately the subject of discussion, with a reasonable prospect of justice to our injured citizens.

I have the honour to be, &c.

(*Signed*) R. SMITH.

General ARMSTRONG, *&c. &c.*

Mr. Smith to General Armstrong.

DEPARTMENT OF STATE, JULY 2, 1810.

SIR,

THE enclosed is a copy of a letter of instruction to Mr. Pinkney, bearing the same date with this letter. You will thence perceive that if the answer of the British government to the representation and requisition which our minister at London may make, should be of a satisfactory nature, it will be transmitted to you without delay. In that case you will make a proper use of it, for obtaining a repeal of the Berlin decree, and you will proceed, concurrently with Mr. Pinkney, in bringing about successive removals by the two governments of all their predatory edicts.

I avail myself of this occasion to state to you, that it is deemed of great importance that our ministers at foreign courts, and especially at Paris and London, should be kept, the one by the other, informed of the state of our affairs at each. I have the honour to be, &c.

(*Signed*) R. SMITH.

General ARMSTRONG, *&c. &c. &c.*

Mr. Smith to General Armstrong.

DEPARTMENT OF STATE, JULY 5, 1810.

SIR,

THE arrival of the John Adams brought your letters of the 1st, 4th, 7th and 16th of April.

From that of the 16th of April it appears, that the seizures of the American property, lately made, had been followed up by its actual sale, and that the proceeds had been deposited in the emperour's *caisse privé*. You have presented in such just colours the enormity of this outrage, that I have only to signify to you, that the President entirely approves the step that has been taken by you, and that he does not doubt that it will be followed by you, or the person who may succeed you, with such further inter-

positions as may be deemed advisable. He instructs you particularly to make the French government sensible of the deep impression made here by so signal an aggression on the principles of justice and of good faith, and to demand every reparation of which the case is susceptible. If it be not the purpose of the French government to remove every idea of friendly adjustment with the United States, it would seem impossible but that a reconsideration of this violent proceeding must lead to a redress of it, as a preliminary to a general accommodation of the differences between the two countries.

At the date of the last communication from Mr. Pinkney, he had not obtained from the British government an acceptance of the condition, on which the French government was willing to concur, in putting an end to all the edicts of both, against our neutral commerce. If he should afterwards have succeeded, you will of course, on receiving information of the fact, immediately claim from the French government the fulfilment of its promise, and by transmitting the result to Mr. Pinkney, you will cooperate with him in completing the removal of all the illegal obstructions to our commerce.

Among the documents now sent is another copy of the act of Congress, repealing the non-intercourse law, but authorizing a renewal of it against Great Britain, in case France shall repeal her edicts and Great Britain refuse to follow her example, and *vice versa*. You have been already informed that the President is ready to exercise the power vested in him for such a purpose, as soon as the occasion shall arise. Should the other experiment, in the hands of Mr. Pinkney, have failed, you will make the act of Congress, and the disposition of the President, the subject of a formal communication to the French government, and it is not easy to conceive any ground, even specious, on which the overture specified in the act can be declined.

If the non-intercourse law, in any of its modifications, was objectionable to the emperour of the French, that law no longer exists.

If he be ready, as has been declared in the letter of the duke of Cadore of February 14, to do justice to the United States, in the case of a pledge on their part not to submit to the British edicts, the opportunity for making good the declaration is now afforded. Instead of submission, the President is ready, by renewing the non-intercourse against Great Britain, to oppose to her orders in council a measure, which is of a character that ought to satisfy any reasonable expectation. If it should be necessary for you to meet the question, whether the non-intercourse will be renewed against Great Britain, in case she should not comprehend, in the repeal of her edicts, her blockades, which are not consistent with the law of nations, you may, should it be found necessary, let it be understood, that a repeal of the illegal blockades of a date prior to the Berlin decree, namely, that of May, 1806, will be included in the condition required of Great Britain; that particular blockade having been avowed to be comprehended in, and of course identified with the orders in council. With respect to blockades, of a subsequent date or not, against France, you will press the reasonableness of leaving them, together with future blockades not warranted by publick law, to be proceeded against by the United States in the manner they may choose to adopt. As has been heretofore stated to you, a satisfactory provision for restoring the property lately surprised and seized by the order or at the instance of the French government, must be combined with a repeal of the French edicts, with a view to a non-intercourse with Great Britain: such a provision being an indispensable evidence of the just purpose of France towards the United States. And you will, moreover, be careful, in arranging such a provision for that particular case of spoliations, not to weaken the ground on which a redress of others may be justly pursued.

If the act of Congress which has legalized a free trade with both the belligerents, without guarding against British interruptions of it with France, whilst France cannot materially interrupt it with Great Britain, be complained

of as leaving the trade on the worst possible footing for France, and on the best possible one for Great Britain, the French government may be reminded of the other feature of the act, which puts it in their own power to obtain either an interruption of our trade with Great Britain, or a recall of her interruption of it with France.

Among the considerations which belong to this subject, it may be remarked, that it might have been reasonably expected, by the United States, that a repeal of the French decrees would have resulted from the British order in council of April, 1809. This order expressly revoked the preceding orders of November, 1807, heretofore urged by France in justification of her decrees, and was not only different in its extent and in its details, but was essentially different in its policy.

The policy of the orders of 1807 was, by cutting off all commercial supplies, to retort on her enemies the distress which the French decree was intended to inflict on Great Britain.

The policy of the order of April, 1809, if not avowedly, was most certainly to prevent such supplies, by shutting out those only which might flow from neutral sources, in order thereby to favour a surreptitious monopoly to British traders. In order to counteract this policy, it was the manifest interest of France to have favoured the rival and cheaper supplies through neutrals; instead of which, she has co-operated with the monopolising views of Great Britain by a vigorous exclusion of neutrals from her ports. She has in fact reversed the operation originally professed by her decree. Instead of annoying her enemy at the expense of a friend, she annoys a friend for the benefit of her enemy.

If the French government should accede to the overture contained in the act of Congress, by repealing or so modifying its decrees as that they will cease to violate our neutral rights, you will, if necessary, transmit the repeal, properly authenticated, to Mr. Pinkney by a special messenger, and you will hasten and ensure the receipt of it

here, by engaging a vessel, if no equivalent conveyance should offer, to bring it directly from France, and by sending several copies to Mr. Pinkney to be forwarded from British ports. I have the honour, &c. &c.

(*Signed*) R. SMITH.

General Armstrong, &c. &c. &c.

Mr. Smith to General Armstrong.

DEPARTMENT OF STATE, JULY 17, 1810.

SIR,

You will herewith receive duplicates of my letters to you of the 20th June, and 2d and 5th of July.

This despatch you will receive from lieutenant Miller, of the navy, who is to proceed from New York in the sloop of war, the Hornet. This publick vessel has been ordered to England and to France, not only for the purpose of transmitting despatches to you and to our minister in London, but for the further purpose of affording you, as well as him, a safe opportunity of conveying to this department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the governments of England and France. And with a view to ensure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe, after the first day of October next. With respect therefore to the time you will detain Mr. Miller in Paris, you will be influenced by the information which you may receive from him, as to the orders he may have from the commanding officer of the Hornet. I have the honour to be, &c.

(*Signed*) R. SMITH.

General Armstrong, &c. &c.

Extracts of a Letter from Mr. Smith to General Armstrong, dated Department of State, Nov. 2, 1810.

"You will herewith receive a printed copy of the proclamation, which conformably to the act of Congress, has been issued by the President on the revocation of the Ber-

lin and Milan decrees. You will however let the French government understand, that this has been done on the ground, that the repeal of these decrees does involve an extinguishment of all the edicts of France actually violating our neutral rights, and that the reservations under the expression "it being understood," are not conditions precedent, affecting the operation of the repeal, and on the ground also that the United States are not pledged against the blockades of Great Britain beyond what is stated in my letter to you of the 5th July. It is to be remarked, moreover, that in issuing the proclamation, it has been presumed that the requisition contained in that letter, on the subject of the sequestered property, will have been satisfied. This presumption is not only favoured by the natural connection of the policy and justice of a reversal of that sequestration, with the repeal of the decrees, but is strengthened by concurrent accounts, through different channels, that such property as has been sequestered has been actually restored."

"The enclosed copy of my last letter to Mr. Pinkney of the 19th ultimo, will afford you a distinct view of the line of conduct presented to him in relation to the British orders and blockades.

"This despatch will be delivered to you by one of the officers of the United States frigate Essex, who will have orders to return to his ship as soon as he shall have received such despatches as you may deem it necessary to transmit to this department."

Mr. Smith to General Armstrong.

DEPARTMENT OF STATE, NOV. 5, 1810.

SIR,

As the ground on which the French government has deemed it expedient to place the revocation of its decrees, may suggest to it the further pretext of requiring a restoration of the French property seized here under the non-intercourse law, as a condition to their restoring the American property condemned or sequestered under the French

decree of March, you are authorized, in case a restoration can be thus, and not otherwise obtained, to acquiesce in such an arrangement, and, if necessary, to give to such arrangement a conventional form, requiring the sanction of the Senate. You will, however, take care to avoid any expressions implying an acknowledgment, on the part of the United States, that the non-intercourse law, which was not retrospective, has any analogy to the French decree, the injustice of which essentially consists in its retrospective operation. In truth, the arrangement on the part of the United States will be little more than nominal, as will appear by the enclosed copy of a letter from the treasury department. It may be proper to remark, that the third section of the act of May, for the recovery of forfeitures under the non-intercourse law, contemplated violations by our own citizens rather than French violations, which could not have been of sufficient importance to have called for such a provision, pointing particularly at them.

I have the honour to be, &c.

(*Signed*) R. SMITH.

General ARMSTRONG, *&c. &c.*

Mr. Pinkney to Mr. Smith.

LONDON, FEB. 19, 1810.

SIR,

I RECEIVED, on the 12th instant, by Mr. Powell, whom I had sent some time before to France, a letter from general Armstrong, of which a copy is enclosed; and, keeping in view the instructions contained in your letter to me of the 11th of November last, I have written to lord Wellesley to inquire whether any, and if any, what blockades of France, instituted by Great Britain during the present war, before the first of January, 1807, are understood here to be in force. A copy of my letter to lord Wellesley is enclosed.

It is not improbable that this official inquiry will produce a declaration, in answer to it, that none of those blockades are in force; and I should presume that such a

declaration will be received in France as substantially satisfying the condition announced to me by general Armstrong.

I am not aware that this subject could have been brought before the British government in any other form than that which I have chosen. It would not, I think, have been proper to have applied for a revocation of the blockades in question, (at least, before it is ascertained that they are in existence) or to have professed, in my letter to lord Wellesley, to found, upon general Armstrong's communication, my inquiry as to their actual state. I have, however, supposed it to be indispensable (and have acted accordingly) that I should explain to lord Wellesley, in conversation, the probability, afforded by general Armstrong's letter, that a declaration by this government to the effect above mentioned, would be followed by the recall of the Berlin decree.

I cannot, perhaps, expect to receive from lord Wellesley an answer to my letter, in time to send a copy by the John Adams, now in the Downs or at Portsmouth; but I will send it by an early opportunity, and will take care that general Armstrong shall be made acquainted with it without delay. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

P. S. March 23, 1810. Since the writing of this letter, lord Wellesley has sent me the answer (of the 2d instant) of which a copy is now enclosed. It was not satisfactory, and I pointed out its deficiencies to lord Wellesley in conversation, and proposed to him that I should write him another letter requesting explanations. He assented to this course, and I have written him the letter of the 7th instant, of which also a copy is enclosed. His reply has been promised very frequently, but has not yet been received. I have reason to expect that it will be sufficient; but I cannot think of detaining the corvette any longer. The British packet will furnish me with an opportunity of for-

warding it to you; and I will send Mr. Lee with it to Paris, by the way of Morlaix.

I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

From General Armstrong to Mr. Pinkney.

PARIS, JAN. 25, 1810.

SIR,

A LETTER from Mr. Secretary Smith of the 1st of December last, made it my duty to inquire of his excellency the duke of Cadore, what were the conditions on which his majesty the emperour would annul his decree, commonly called the Berlin decree; and whether, if Great Britain revoked her blockades, of a date anteriour to that decree, his majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger:

Answer.

"THE only conditions required for the revocation, by his majesty the emperour, of the decree of Berlin, will be a previous revocation, by the British government, of her blockades of France, or part of France (such as that from the Elbe to Brest, &c.) of a date anteriour to that of the aforesaid decree." I have the honour to be, &c.

(*Signed*) JOHN ARMSTRONG.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, FEB. 15, 1810.

MY LORD,

IN pursuance of the intimation which I had the honour to give to your lordship a few days ago, I beg to trouble your lordship with an inquiry, whether any, and if any, what blockades of France, instituted by Great Britain during the present war, before the 1st day of January, 1807, are understood by his majesty's government to be in

force. I am not able at present to specify more than one of the blockades to which this inquiry applies; namely, that from the Elbe to Brest, declared in May, 1806, and afterwards limited and modified; but I shall be much obliged to your lordship for precise information as to the whole. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, MARCH 2, 1810.

SIR,

I HAVE the honour to acknowledge the receipt of your note of the fifteenth ultimo, wherein you request to be informed whether any, and if any, what blockades of France, instituted by Great Britain during the present war, before the first day of January, 1807, are understood by his majesty's government to be in force? I have now the honour to acquaint you, that the coast, rivers and ports from the river Elbe to Brest, both inclusive, were notified to be under the restrictions of blockade, with certain modifications, on the 16th of May, 1806; and that these restrictions were afterwards comprehended in the order of council of the 7th of January, 1807, which order is still in force. I have the honour to be, &c. &c.

(*Signed*) WELLESLEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, MARCH 7, 1810.

MY LORD,

I have had the honour to receive your lordship's answer of the 2d instant, to my letter of the 15th of last month, concerning the blockades of France, instituted by Great Britain during the present war, before the first day of January, 1807.

I infer from that answer, that the blockade notified by Great Britain in May, 1806, from the Elbe to Brest, is not itself in force, and that the restrictions, which it established, rest altogether, so far as such restrictions exist at this

time, upon an order or orders in council issued since the first day of January, 1807.

I infer also, either that no other blockade of France was instituted by Great Britain during the period above mentioned, or that, if any other was instituted during that period, it is not now in force.

May I beg your lordship to do me the honour to inform me whether these inferences are correct, and, if incorrect, in what respects they are so?

I have the honour to be &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, FEB. 23, 1810.

SIR,

I HAVE the honour to transmit enclosed a copy of a notification of the blockade of the "coast and ports of Spain, from Gijon to the French territory," received from lord Wellesley two days ago. I have not yet given any answer to this communication. I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, FEB. 20, 1810.

THE undersigned, his majesty's principal Secretary of State for foreign affairs, has received his majesty's commands to inform Mr. Pinkney, envoy extraordinary and minister plenipotentiary from the United States of America, that the king has judged it expedient to signify his commands to the lords commissioners of the admiralty, to establish a strict blockade of the coast and ports of Spain, from Gijon to the French territory, which will be maintained and enforced according to the usages of war acknowledged and observed in similar cases.

Mr. Pinkney is therefore requested to apprize the American consuls and merchants residing in England, that the whole of the Spanish coast above mentioned is, and must

be considered as in a state of blockade; and that from this time all the measures authorized by the law of nations, and the respective treaties between his majesty and the different neutral powers, will be adopted and executed, with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

(*Signed*) WELLESLEY.

Mr. Pinkney to Mr. Smith.

LONDON, MARCH 21, 1810.

SIR,

On the 27th of December, Mr. Brownell delivered to me your letters of the 11th. 14th, and 23d of the preceding month, and on the Saturday following I had a conference with the marquis Wellesley, in the course of which I explained to him fully the grounds upon which I was instructed to request Mr. Jackson's immediate recall, and upon which the official intercourse between that minister and the American government had been suspended.

Lord Wellesley's reception of what I said to him was frank and friendly; and I left him with a persuasion that we should have no cause to be dissatisfied with the final course of his government on the subjects of our conference.

We agreed in opinion that this interview could only be introductory to a more formal proceeding on my part; and it was accordingly settled between us, that I should present an official letter to the effect of my verbal communication.

Having prepared such a letter, I carried it myself to Downing-street a few days afterwards, and accompanied the delivery of it to lord Wellesley with some explanatory observations, with which it is not, I presume, necessary to trouble you. You will find a copy of this letter enclosed, and will be able to collect from it the substance of the greater part of the statements and remarks which I thought it my duty to make in the conversation above mentioned.

Although I was aware that the answer to my letter would not be very hastily given, I certainly was not prepared to expect the delay which has actually occurred. The President will do me the justice to believe, that I have used every exertion, consistent with discretion and the nature of the occasion, to shorten that delay; which, though not ascribable, as I persuade myself, to any motive unfriendly or disrespectful to the United States, may, I am sensible, have been productive of some disadvantage. A copy of the answer, received on the day of its date, is enclosed.

Between the delivery of my letter and the receipt of the reply, I had frequent conversations with lord Wellesley, some of which were at his own request, and related altogether to the subject of my letter. The rest were on other subjects; but Mr. Jackson's affair was incidentally mentioned in all. A particular account of what was said on these several occasions would scarcely be useful, and could not fail to be tedious. It will, perhaps, be sufficient to observe, that, although these conversations were less satisfactory to me than the first, there was always an apparent anxiety, on the part of lord Wellesley, to do what was conciliatory; and that, in the share which I took in them, I was governed by an opinion that, although it might become my duty to avoid, with more than ordinary care, all appearance of my being a party to the ultimate proceeding of the British government upon my official representation, it could not be otherwise than proper, in any turn which the affair could take, that I should avail myself of every opportunity of bringing to lord Wellesley's mind such considerations as were calculated to produce a beneficial influence upon the form and character of that proceeding. In what light the President will view the course, which after so much deliberation this government has adopted, it would not become me even to conjecture. If, either in manner or in effect, it should not fulfil his expectations, I shall have to regret that the success of my humble endeavours to make it what it ought to be, has not been proportioned to my zeal and diligence.

Of my letter to lord Wellesley, of the 2d of January, I have very little to say. I trust it will be found faithful to my instructions; and that, while it maintains the honour of my government, it does not neglect what is due to conciliation.

I am not sure that I ought to have quoted in it your letter to me of the 11th of November, of which the substance is undoubtedly given in the quotation from your subsequent letter of the 23d of the same month. But I saw no objection to a repetition of the just and amicable sentiments expressed in these quotations; and, as I had been induced, at my first interview with lord Wellesley, to read to his lordship each of the passages, I felt that I was in some sort bound to the introduction of both into my written communication.

My letter avoids all discussion, and all invitation to discussion, on the business of the Chesapeake, on the orders in council, and on other topicks which circumstances have connected with both. It does not, however, entirely pass them by; but contains such references to them as I supposed were likely to be useful. I feel assured, that in this respect I have acted in conformity with the President's intentions. Indeed, if I had acted otherwise, I should have complicated and embarrassed a question, which I was ordered to simplify, and forced into combination the peculiar difficulties of several subjects, to counteract the wishes of my government upon each. I should have done so, too, without inducement; for I had no authority to make any demand or proposal in the cases of the Chesapeake and orders in council, or to act upon any proposal which lord Wellesley might be inclined to make to me; and it was perfectly clear that these subjects were not susceptible of any very material written illustrations which they had not already received. I did not, however, imagine that I was to make no use of the reflections upon them which you had furnished in your letter of the 23d of November. I was, on the contrary, convinced that it would be proper to suggest them occasionally in conversation, with a view to dis-

pose lord Wellesley, and through him the British government, to seek such fair and liberal adjustments with us as would once more make us friends.

Accordingly, in my first conference, I spoke of the affair of the Chesapeake and the orders in council, and concluded my explanations, which did not lose sight of your letter of the 23d of November, by expressing a wish that lord Wellesley would allow me an early opportunity of a free communication with him on these heads. From the disposition evinced by lord Wellesley, in the notice which he took of these suggestions and of that wish, I was inclined to hope that it might be in my power to announce to you, by the return of the corvette, that a new envoy would be charged, as the successor of Mr. Jackson, with instructions adapted to the purpose of honourable accommodation. My letter to his lordship was written under the influence of this hope, and concludes, as you will perceive, with as strong an appeal to the disposition on which it rested as could with propriety be made.

I recurred, in subsequent conversations, as often as occasion presented itself, to the attack on the Chesapeake and to the orders in council. It soon appeared, however, that a new envoy would not, in the first instance, be sent out to replace Mr. Jackson, and consequently that an arrangement of these subjects was not in that mode to be expected. A special mission would still less be resorted to; and it was not likely that approaches to negotiation would be made through a *charge d'affairs*. It was still barely possible that, though I had no powers to negotiate and conclude, the British government might not be disinclined to make advances through me, or that lord Wellesley would suffer me so far to understand the views of his government as that I might enable you to judge upon what conditions and in what mode arrangement was practicable. This was possible, though not very probable; but it finally became certain that no definite proposal would, for the present at least, be made to us through any channel, and that lord Wellesley would not commit himself, upon the

details to which I wished him to speak, but upon which, of course, I did not press him.

It only remains to refer you, for the actual sentiments of this government, with regard to future negotiation, to the concluding paragraph of lord Wellesley's letter to me, which is substantially the same with his recent verbal explanations, and to add that, in a short conversation since the receipt of his letter, he told me that, if I thought myself empowered to enter upon and adjust the case of the Chesapeake, he would proceed without delay to consider it with me.

I have not supposed that lord Wellesley's letter requires any other than the common answer; and I have accordingly given the reply of which a copy is now transmitted.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, JAN. 2, 1810.

MY LORD,

IN the course of the official correspondence which has lately taken place between the Secretary of State of the United States, and Mr. Jackson, his majesty's envoy extraordinary and minister plenipotentiary at Washington, it has unfortunately happened, that Mr. Jackson has made it necessary that I should receive the commands of the President to request his recall, and that in the mean time the intercourse between that minister and the American government should be suspended.

I am quite sure, my lord, that I shall best consult your lordship's wishes, and the respect which I owe to his majesty's government, by executing my duty on this occasion with perfect simplicity and frankness. My instructions, too, point to that course, as required by the honour of the two governments, and as suited to the confidence which the President entertains in the disposition of his majesty's government to view in its true light the subject to which they relate. With such inducements to exclude from this

communication every thing which is not intimately connected with its purpose, and, on the other hand, to set forth with candour and explicitness the facts and considerations which really belong to the case, I should be unpardonable if I fatigued your lordship with unnecessary details, or affected any reserve.

It is known to your lordship that Mr. Jackson arrived in America as the successor of Mr. Erskine, while the disappointment produced by the disavowal of the arrangement of the 19th of April, was yet recent, and while some other causes of dissatisfaction, which had been made to associate themselves with that disappointment, were in operation. But your lordship also knows, that his reception by the American government was marked by all that kindness and respect which were due to the representative of a sovereign, with whom the United States were sincerely desirous of maintaining the most friendly relations.

Whatever were the hopes which Mr. Jackson's mission had inspired, of satisfactory explanations and adjustments upon the prominent points of difference between the two countries, they certainly were not much encouraged by the conferences, in which, as far as he thought proper, he opened to Mr. Smith, soon after his arrival, the nature and extent of his powers and the views of his government. After an experiment, deemed by the government of the United States to be sufficient, it appeared that these conferences, necessarily liable to misconception and want of precision, were not likely to lead to any practical conclusion.

Accordingly, on the 9th of October, Mr. Smith addressed a letter to Mr. Jackson, in which, after stating the course of proceeding which the American government had supposed itself entitled to expect from him, with regard to the rejected arrangement and the matters embraced by it, and after recapitulating what Mr. Smith believed to have passed in their recent interviews relative to those subjects, he intimated that it was thought expedient that their further discussions, on that particular occasion, should be in writing.

It is evident, my lord, from Mr. Jackson's reply of the 11th of the same month, that he received this intimation (which, carefully restricted as it was, he seems to have been willing to understand in a general sense) with considerable sensibility. He speaks of it in that reply as being without example in the annals of diplomacy; as a step against which it was fit to enter his protest; as a violation in his person of the most essential rights of a publick minister; as a new difficulty thrown in the way of a restoration of a thorough good understanding between the two countries.

I need not remark to your lordship that nothing of all this could with propriety be said of a proceeding, in itself entirely regular and usual, required by the state of the discussions to which only it was to be applied, and proposed in a manner perfectly decorous and unexceptionable. The government of the United States had expected from Mr. Jackson, an explanation of the grounds of the refusal on the part of his government to abide by Mr. Erskine's arrangement, accompanied by a substitution of other propositions. It had been collected from Mr. Jackson's conversations, that he had no power whatsoever to give any such explanation; or, in the business of the orders in council, to offer any substitute for the rejected agreement; or, in the affair of the Chesapeake, to offer any substitute that could be accepted; and, it had been inferred from the same conversations, that, even if the American government should propose a substitute for that part of the disavowed adjustment which regarded the orders in council, the substitute could not be agreed to (if, indeed, Mr. Jackson had power to do more than discuss it) unless it should distinctly recognise conditions which had already been declared to be wholly inadmissible.

To what valuable end, my lord, loose conversations, having in view, either no definite result, or none that was attainable, could, under such circumstances and upon such topicks, be continued, it would not be easy to discover; and I think I may venture to assume that the subsequent

written correspondence has completely shown, that they could not have been otherwise than fruitless, and that they were not too soon abandoned for that more formal course, to which, from the beginning, they could only be considered as preparatory.

After remonstrating against the wish of the American government to give to the further discussions a written form, Mr. Jackson disposes himself to conform to it; and, speaking in the same letter of the disavowal of the arrangement of April, he declares that he was not provided with instructions to explain the motives of it; and he seems to intimate that explanation through him was unnecessary, not only because it had already been made through other channels, but because the government of the United States had entered into the arrangement with a knowledge "that it could only lead to the consequences that actually followed." In the conclusion of the fourth paragraph of the letter he informs Mr. Smith, that the despatch of Mr. Canning to Mr. Erskine, "which Mr. Smith had made the basis of an official correspondence with the latter minister, and which had been read to the American minister in London," was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with the United States on the matter to which it related.

Mr. Smith's answer to this letter bears date the 19th of October; and I beg your lordship's permission to introduce from it the following quotation: "The stress you have laid on what you have been pleased to state as the substitution of the terms finally agreed on" (in the arrangement of April, on the orders in council) "for the terms first proposed" (by Mr. Erskine) "has excited no small degree of surprise. Certain it is that your predecessor did present for my consideration the same conditions which now appear in the present document; that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could permit, and that on finding his first proposal unsuccessful, the more reasonable

terms comprised in the arrangement respecting the orders in council, were adopted. And what is there in this to countenance the conclusion you have drawn in favour of the right of his Britannic majesty to disavow the proceeding? is any thing more common in publick negotiations than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two, or more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable? This must be obvious to every understanding, and is confirmed by universal experience.

"What are the real and entire instructions given to your predecessor, is a question essentially between him and his government. That he had, or, at least, that he believed he had, sufficient authority to conclude the arrangement, his formal assurances during our discussions were such as to leave no room for doubt. His subsequent letter of the 15th of June, renewing his assurances to me, 'that the terms of the agreement so happily concluded by the recent negotiation will be strictly fulfilled on the part of his majesty,' is an evident indication of what his persuasion then was as to his instructions. And with a view to show what his impressions have been even since the disavowal, I must take the liberty of referring you to the annexed extracts (see C.) from his official letters of the 31st of July, and of the 14th of August.

"The declaration, 'that the despatch from Mr. Canning to Mr. Erskine, of the 23d of January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates,' is now for the first time made to this government. And I need hardly add, if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make

an arrangement, the arrangement would not have been made."

I suppose, my lord, that it was impossible to disclaim for the American government, in more precise and intelligible language than is found in this quotation, all knowledge of Mr. Erskine's instructions, incompatible with a sincere, honourable, and justifiable belief that he was, as he professed to be, fully authorized to make the agreement, in which he undertook to pledge the faith of his majesty's government. Yet in Mr. Jackson's next letter (of the 23d of October) to Mr. Smith, he says: "I have therefore no hesitation in informing you that his majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was *in violation of that gentleman's instructions*, and altogether without authority to subscribe to the terms of it. *These instructions* I now understand from your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time in substance made known to you. No stronger illustration, therefore, can be given of the deviation from them, which occurred, than by a reference to the terms of your agreement."

Your lordship will allow me to take for granted that this passage cannot be misunderstood. Its direct and evident tendency is to fasten upon the government of the United States, an imputation most injurious to its honour and veracity. The charge, that it had all along been substantially apprized, however it might affect to be ignorant, of the instructions, which Mr. Erskine's arrangement was said to have violated, had before been insinuated; but it is here openly made; in reply, too, to a paper, in which the contrary is formally declared by the official organ of the American government.

This harsh accusation, enhanced by the tone of the letter in which it appeared, was in all respects as extraordinary as it was offensive. It took the shape of an inference from facts and asseverations, which necessarily led to the opposite conclusion.

It was preferred as an answer to a claim of explanation which Mr. Jackson professed not to be authorized by his government to offer at all, but which he chose so to offer from himself as to convert explanation into insult. It was advanced not only without proof, and against proof, but against all colour of probability. It would scarcely have been advanced under any conviction that it was necessary to the case which Mr. Jackson was to maintain; for his majesty's government had disavowed Mr. Erskine's arrangement, according to Mr. Jackson's own representations, without any reference to the knowledge which this accusation imputed to the government of the United States: and it need not be stated that no allusion whatsoever was made to it, by Mr. Secretary Canning, in those informal communications to me, which Mr. Jackson has mentioned. It was not, moreover, to have been expected that, in the apparent state of Mr. Jackson's powers, and in the actual posture of his negotiation, he would seek to irritate where he could not arrange, and sharpen disappointment by studied and unprovoked indignity.

The course which the government of the United States adopted on this painful occasion, was such as at once demonstrated a sincere respect for the publick character with which Mr. Jackson was invested, and a due sense of its own dignity. Mr. Jackson's conduct had left a feeble hope that further intercourse with him, unproductive of good as it must be, might still be reconcileable with the honour of the American government. A fair opportunity was accordingly presented to him of making it so by Mr. Smith's letter of 1st of November, of which I beg leave to insert the concluding paragraph.

"I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries: But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your repetition

of a language implying a knowledge, on the part of this government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this government had no such knowledge, and that with such knowledge no such arrangement would have been entered into, the view which you have again presented of the subject makes it my duty to apprize you, that such insinuations are inadmissible in the intercourse of a foreign minister with a government that understands what it owes to itself."

Whatever was the sense in which Mr. Jackson had used the expressions to which the American government took exception, he was now aware of the sense in which they were understood, and consequently was called upon, if he had been misapprehended, to say so. His expressions conveyed an injurious meaning, supported moreover by the context; and the notice taken of them had not exceeded the bounds of just admonition. To have explained away even an imaginary affront, would have been no degradation; but, when an occasion was thus offered, to qualify real and severe imputations upon the government to which he was accredited, it could scarcely be otherwise than a duty to take immediate advantage of it.

Such, however, was not Mr. Jackson's opinion. He preferred answering the appeal, which had been made to him, by reiterating with aggravations the offensive insinuation. He says, in the last paragraph of his letter, of the 4th of November, to Mr. Smith, "You will find that, in my correspondence with you, I have carefully avoided drawing conclusions *that did not necessarily follow from the premises advanced by me*, and least of all should I think of uttering an insinuation where I was unable *to substantiate a fact*. *To facts*, such as I have become acquainted with them, I have scrupulously adhered. *In so doing I must continue*, whenever the good faith of his majesty's government is called in question, to vindicate its honour and dignity, in the manner that appears to me best calculated for that purpose."

To this, my lord, there could be but one reply. Official intercourse with Mr. Jackson could no longer be productive of any effects that were not rather to be avoided than desired; and it was plainly impossible that it should continue. He was, therefore, informed by Mr. Smith, in a letter of the 8th of November, which recapitulated the inducements to this unavoidable step, that no further communications would be received from him; that the necessity of this determination would, without delay, be made known to his government, and that in the mean time a ready attention would be given to any communications, affecting the interests of the two nations, through any other channel that might be substituted.

The President has been pleased to direct that I should make known this necessity to his majesty's government, and at the same time request that Mr. Jackson be recalled. And I am particularly instructed to do this in a manner that will leave no doubt of the undiminished desire of the United States, to unite in all the means the best calculated to establish the relations of the two countries on the solid foundations of justice, of friendship, and of mutual interest. I am further particularly instructed, my lord, to make his majesty's government sensible, that, in requiring the recall of Mr. Jackson, the United States wish not to be understood as in any degree obstructing communications which may lead to a friendly accommodation; but that, on the contrary, they sincerely retain the desire, which they have constantly professed, to facilitate so happy an event, and that nothing will be more agreeable to them than to find the minister, who has rendered himself so justly obnoxious, replaced by another, who, with a different character, may carry with him all the authorities and instructions requisite for the complete success of his mission; or if the attainment of this object through my agency should be considered more expeditious or otherwise preferable, that it will be a course entirely satisfactory to the United States.

These instructions, which I lay before your lordship without disguise, require no comment.

Before I conclude this letter, it may be proper very shortly to advert to two communications received by Mr. Secretary Smith from Mr. Oakely after the correspondence with Mr. Jackson had ceased.

The first of these communications (of which I am not able to ascertain the date) requested a document having the effect of a special passport or safeguard for Mr. Jackson and his family, during their further stay in the United States. This application was regarded as somewhat singular; but the document, of which the necessity was not perceived, was nevertheless furnished. The reason assigned for the application excited some surprise. I have troubled your lordship in conversation with a few remarks from my instructions, upon one of those reasons, which I will take the liberty to repeat. The paper in question states, that Mr. Jackson "had already been once most grossly insulted by the inhabitants of Hampton, in the unprovoked language of abuse held by them to several officers bearing the king's uniform, when those officers were themselves violently assaulted and put in imminent danger."

I am given to understand, my lord, that the insult here alluded to was for the first time brought under the notice of the American government by this paper; that it had, indeed, been among the rumours of the day that some unbecoming scene had taken place at Hampton, or Norfolk, between some officers belonging to the Africaine frigate and some of the inhabitants, and that it took its rise in the indiscretion of the former; that no attention to the circumstance having been called for, and no inquiry having been made, the truth of the case is unknown; but that it was never supposed that Mr. Jackson himself, who was on board the frigate, had been personally insulted, nor is it yet understood in what way he supposes that he was so. I am authorized to add, that any complaint or representation on the subject would instantly have received every proper attention.

The other communication (of which the substance was soon afterwards published to the American people in the

form of a circular letter from Mr. Jackson to the British consuls in the United States) seems to have been intended as a justification of his conduct, in that part of his correspondence which had given umbrage to the American government. This paper (bearing date the 13th of November,) is not very explicit; but it would appear to be calculated to give rather a new form to the statements which Mr. Jackson had suffered the government of the United States to view in another light, until it had no choice but to act upon the obvious and natural interpretation of them sanctioned by himself.

It was never objected to Mr. Jackson (as this paper seems to suggest) that he had stated, that the three propositions in Mr. Erskine's original instructions were submitted to Mr. Smith by that gentleman; or that he had stated it as made known to him by Mr. Canning, that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived for the conclusion of an arrangement on the matter to which it related.

The objection was, that he had ascribed to the American government a knowledge that the propositions submitted to its consideration by Mr. Erskine were indispensable conditions, and that he did so, even after that knowledge had been distinctly disclaimed, and he had been made to perceive that a repetition of the allegation could not be suffered. I willingly leave your lordship to judge, whether Mr. Jackson's correspondence will bear any other construction than it in fact received, and whether, supposing it to have been erroneously construed, his letter of the 4th of November should not have corrected the mistake instead of confirming and establishing it.

As an *explanation* this paper was even worse than nothing. It had not the appearance of an attempt to rectify misapprehension. It sought to put the American government in the wrong, by assuming that what had given so much umbrage ought not to have given any. It imported reproach rather than explanation. It kept out of sight

the real offence, and introducing a new and insufficient one in its place, seemed to disclose no other wish than to withdraw from the government of the United States the ground upon which it had proceeded. Its apparent purpose, in a word, was to fix a charge of injustice upon the past, not to produce a beneficial effect upon the future. In this view, and in this only, it was perfectly consistent that it should announce Mr. Jackson's determination to retire to New York.

The time when this paper was presented will not have escaped your lordship's observation. It followed the demand, already mentioned, of a safeguard for "Mr. Jackson, his family, and the gentlemen attached to his mission;" a demand which cannot be regarded, especially if we look to the inducements to which it was referred, as either conciliatory or respectful. It followed, too, the letter of the 4th of November, which, had explanation been intended, ought undoubtedly to have contained it, but which, in lieu of it, contained fresh matter of provocation. It was itself followed by the publication of its own substance in another garb. On the very day of its date, when Mr. Jackson, if he meant it as an explanation, could not be justified in concluding that it would not be satisfactory, it was moulded by him into the circular address to which I have before alluded; and immediate steps appear to have been taken to give to it, in that shape, the utmost publicity. I have no wish, my lord, to make any strong remarks upon that proceeding. It will be admitted that it was a great irregularity; and that, if Mr. Jackson had been particularly anxious to close every avenue to reconciliation between the American government and himself, he could not have fallen upon a better expedient.

I have now only to add, my lord, the expression of my own most ardent wish that, out of the incident which has produced this letter, an occasion may be made to arise, which, improved as it ought to be, and I trust will be, by our respective governments, may conduct them to cordial and lasting friendship. Thus to endeavour to bring good

out of evil, would be worthy of the rulers of two nations that are only in their natural position when they are engaged in offices of mutual kindness, and largely contributing to the prosperity and happiness of each other.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, MARCH 14, 1810.

SIR,

THE letter which I had the honour to receive from you, under date of the 2d of January, together with the additional paragraph received on the 24th of January, has been laid before the king.

The several conferences which I have held with you respecting the transactions to which your letter refers, have, I trust, satisfied you, that it is the sincere desire of his majesty's government, on the present occasion, to avoid any discussion which might obstruct the renewal of amicable intercourse between the two countries.

The correspondence between Mr. Jackson and Mr. Smith has been submitted to his majesty's consideration.

His majesty has commanded me to express his concern that the official communication, between his majesty's minister in America and the government of the United States, should have been interrupted before it was possible for his majesty, by any interposition of his authority, to manifest his invariable disposition to maintain the relations of amity with the United States.

I am commanded by his majesty to inform you, that I have received from Mr. Jackson the most positive assurances, that it was not his purpose to give offence to the government of the United States, by any expression contained in his letters, or by any part of his conduct.

The expressions and conduct of his majesty's minister in America having, however, appeared to the government of the United States to be exceptionable, the usual course in such cases would have been to convey, in the first instance,

to his majesty, a formal complaint against his minister, and to desire such redress as might be deemed suitable to the nature of the alleged offence.

This course of proceeding would have enabled his majesty to have made such arrangements, or to have offered such seasonable explanations, as might have precluded the inconvenience, which must always arise from the suspension of official communication between friendly powers.

His majesty, however, is always disposed to pay the utmost attention to the wishes and sentiments of states in amity with him, and he has therefore been pleased to direct the return of Mr. Jackson to England.

But his majesty has not marked, with any expression of his displeasure, the conduct of Mr. Jackson; whose integrity, zeal, and ability, have long been distinguished in his majesty's service, and who does not appear, on the present occasion, to have committed any intentional offence against the government of the United States.

I am commanded to inform you that Mr. Jackson is ordered to deliver over the charge of his majesty's affairs in America, to a person properly qualified to carry on the ordinary intercourse between the two governments, which his majesty is sincerely desirous of cultivating on the most friendly terms.

As an additional testimony of this disposition, I am authorized to assure you, that his majesty is ready to receive, with sentiments of undiminished amity and good will, any communication which the government of the United States may deem beneficial to the mutual interests of both countries, through any channel of negotiation which may appear advantageous to that government.

I request you will accept the assurances of the high consideration with which I have the honour to be, &c.

(*Signed*) WELLESLEY.

Mr. Pinkney to Lord Wellesley, dated Great Cumberland Place, March 17, 1810.

MY LORD,

I HAVE had the honour to receive your lordship's letter of the 14th inst. in reply to mine of the 2d of January; and will lose no time in transmitting it to my government.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Lord WELLESLEY, *&c. &c. &c.*

Extract of a Letter from Mr. Pinkney to Mr. Smith, dated London. March 27, 1810.

"I HAVE the honour to enclose a copy of lord Wellesley's reply to my letter of the 7th inst. respecting the British blockades of France before the Berlin decree.

"I do not think it of such a nature as to justify an expectation, that general Armstrong will be able to make any use of it at Paris; but I shall, nevertheless, convey to him the substance of it without delay."

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, MARCH 26, 1810.

SIR,

I HAVE the honour to acknowledge the receipt of your letter of the 7th instant, requesting a further explanation of my letter of the 2d, concerning the blockades of France, instituted by Great Britain during the present war, before the 1st day of January, 1807.

The blockade, notified by Great Britain in May, 1806, has never been formally withdrawn. It cannot, therefore, be accurately stated, that the restrictions which it established, rest altogether on the order of council of the 7th of January, 1807: they are comprehended under the more extensive restrictions of that order. No other blockade of the ports of France was instituted by Great Britain, between the 16th of May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force.

I beg you to accept the assurances of high consideration, with which I have the honour to be, &c.

(*Signed*) WELLESLEY.

Mr. Pinkney to Mr. Smith.

LONDON, APRIL 8, 1810.

SIR,

In a short letter of the 2d instant, by Mr. John Wallace in the British packet, I had the honour to acknowledge the receipt, on the 31st of last month, (by Dr. Logan) of your letters of the 20th of January and the 16th of February, and to inform you that I had, in consequence, an appointment to meet lord Wellesley on the third.

At the interview which took place in pursuance of that appointment, I explained to lord Wellesley the nature of the powers now confided to me, and, as far as was necessary, the subjects to which they related. The result of the conversation which ensued was an understanding that we should begin with an attempt to settle the affair of the Chesapeake, and, that attempt being successful, that we should proceed to consider next the subject of the orders in council, and lastly, the commercial and other concerns embraced by the commission of 1806 to Mr. Monroe and myself.

In conformity with this understanding, it was agreed that I should immediately follow up the conference with a note stating my authority to adjust with the British government the case of the Chesapeake; and I have accordingly prepared and sent to lord Wellesley the letter of which a copy is enclosed. I have not since heard from his lordship, to whom of course it now belongs to make proposals.

It will not I trust be thought that my letter, which is simply an official notification in civil terms of my power to receive and act upon such overtures as this government may choose to make, goes too far.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

P. S. April 9th. I have just received from lord Wellesley a note of which a copy is enclosed, inviting me to a

conference on Thursday next, (the 12th,) doubtless on the affair of the Chesapeake. I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE.
(without date.)

MY LORD,

I HAVE the honour to state to your lordship in conformity with my verbal explanations in a recent conference, that I am authorized to adjust with his majesty's government the case of the attack on the American frigate Chesapeake, in the month of June, 1807, by the British ship *the Leopard*.

It will give me sincere pleasure to communicate with your lordship on this interesting subject, in such manner as shall be thought best calculated to lead to a fair and honourable arrangement of it, preparatory to the restoration of kindness and beneficial intercourse between the two countries. I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Lord Wellesley to Mr Pinkney.

FOREIGN OFFICE, APRIL 9, 1810.

THE marquis Wellesley presents his compliments to Mr. Pinkney, and will be happy to have the honour of seeing him at the foreign office Thursday next, at two P. M. if that hour should suit his convenience.

Mr. Pinkney to Mr. Smith.

LONDON, APRIL 9, 1810.

SIR,

I HAVE, upon full reflection, thought it necessary to prepare a letter to lord Wellesley, reciting the French minister's official statement to general Armstrong, of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British government to a revocation (or to a

precise declaration that they are no longer in force) of the blockade of May, 1806, and of that of Venice, especially the former. As the answer to this letter (upon which I wish to converse with lord Wellesley before I deliver it) will not probably be very prompt, I have in the mean time sent Mr. Lee to Paris with two letters to general Armstrong, of which copies are enclosed.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to General Armstrong.

LONDON, APRIL 6, 1810.

DEAR SIR,

I DO not know whether the statement contained in my letter of the 27th of last month, will enable you to obtain the recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806, is virtually at an end, being merged and comprehended in an order in council, issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade (and of that of Venice) or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon (*if indeed they can be obtained at all*) I will not detain Mr. Lee, but will send you another messenger (Mr. Craig of Philadelphia) in the course of three or four weeks, with the result of my endeavours.

In the mean time such use can be made of my communication of the 27th ultimo, as you may deem advisable.

I have the honour to be, &c. &c.

(*Signed*) WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, MAY 2, 1810.

SIR,

I HAD the honour to inform you in my letter of the 9th of last month, that I had, upon full reflection, thought it necessary to prepare a letter to lord Wellesley, reciting the

French minister's official statement to general Armstrong, of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British government to a revocation, or to a precise declaration that they are no longer in force, of the blockade of May, 1806, and of that of Venice, especially the former.

I have now the honour to transmit a copy of the letter which, in pursuance of that determination, I have just sent to lord Wellesley. I am not able to say what will be the nature of the answer to it; but if it should be satisfactory, I will lose no time in communicating it to Gen. Armstrong.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, APRIL 30, 1810.

MY LORD,

The French minister for foreign affairs, has stated in an official note to general Armstrong, the minister plenipotentiary of the United States at Paris, "that the only condition required for the revocation, by the French government, of the decree of Berlin, will be the previous revocation by the British government of her blockades of France or part of France, (such as that from the Elbe to Brest, &c.) of a date anteriour to the date of the aforesaid decree."

I had supposed that the blockades of France, instituted by Great Britain before the date of the Berlin decree, were already withdrawn, virtually, though not formally, by reason of the restrictions which they established having been provided for and comprehended in certain orders in council issued after the date of that decree; and your lordship's letter to me of the 26th of last month certainly seems to confirm that supposition, with regard to the blockade of May, 1806; although it proves it to be erroneous, with regard to the only other blockade which falls within the

description of the French minister's communication, namely, the blockade of Venice, established in July of the same year.

As I am anxious to neglect nothing which may have a tendency to produce the repeal of the Berlin decree, and of such other decrees and orders as the government of the United States has from time to time complained of, I beg to inquire of your lordship, with a view to the terms of the above mentioned note to general Armstrong, whether there exists any objection on the part of his majesty's government, to a revocation (or to a declaration that they are no longer in force) of the blockades in question, especially that of May, 1806? I have the honour to be &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, MAY 3, 1810.

SIR,

I ENCLOSE a copy of a letter which I am about to send to lord Wellesley, concerning the forgery, in England, of American ships' papers for the purpose of giving to English vessels the character of American bottoms.

In conformity with your letter of the 3d of November last, which came to hand on the 10th of January, I mentioned the subject to lord Wellesley as soon as I thought it expedient to do so. He gave no opinion upon it; but when I observed that it would perhaps be better to lay the matter before him at once in writing, he expressed his approbation of that course. As there is nothing in the subject itself, or in your letter to forbid it, I shall send him my paper to-day or to-morrow. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, MAY 3, 1810.

MY LORD,

I HAVE the honour to call your lordship's attention, in pursuance of the instructions of my government, to a prac-

tice which has for some time past prevailed in this country, of forging American ships' papers for the purpose of giving to English vessels the character of American bottoms.

It appears from various sources of information, that these fabrications are carried to a great extent, particularly in London, and that the fraudulent papers are purchased as a regular article of traffick, and used in numerous instances, so as to bring into suspicion the genuine documents on which the safety of American commerce depends, and to subject that commerce to serious vexation and loss.

I am confident, my lord, that it is only necessary to suggest to his majesty's government the existence of these abuses, so injurious to the United States and so pernicious in their general tendency, to induce it to cause immediate inquiry to be made with a view to an efficacious remedy. I have therefore only to add, that I am in possession of some papers which throw considerable light on this subject, and which (with such other information as I have obtained or may obtain) I shall be happy to communicate to your lordship whenever your lordship thinks proper.

I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, MAY 18, 1810.

SIR,

I HAVE the honour to enclose a copy of a communication made to me on the 14th instant by lord Wellesley, concerning a partial relaxation of the blockade, notified some time ago, of the coast and ports of Spain between Gijon and the French territory. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, MAY 14, 1810.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's com-

mands to inform Mr. Pinkney, that the king has judged it expedient to signify his orders to the lords commissioners of the admiralty, to give the necessary directions to the officers employed in the blockade of the coast and ports of Spain, from Gijon to the French territory, that they permit, notwithstanding the said blockade, Spanish or neutral vessels laden with cargoes the produce of Spain only, to sail from any port included in the limits of the said blockade, subject, nevertheless, (as to the ports to which they trade) to the restrictions of his majesty's orders in council of the 26th of April, 1809, and of the 7th of January, 1807.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

(*Signed*) WELLESLEY.

Extract of a Letter from Mr. Pinkney to Mr. Smith, dated London, June 13, 1810.

"I HAVE not yet obtained from lord Wellesley an answer to my letter of the 30th of April, concerning the British blockades of France before the date of the Berlin decree. In a short conference on Sunday last, (the 10th instant) I pressed for a prompt and favourable reply, and shall, perhaps, receive it in the course of a few days. I had requested an interview on this subject on the 18th of last month, in consequence of a letter brought by Mr. Lee from general Armstrong, dated 2d of May; but the state of lord Wellesley's health prevented its taking place sooner than the 10th instant.

"I have sent Mr. Craig, (a young gentleman of Philadelphia) as a messenger to general Armstrong. He carries a newspaper copy of the late act of Congress, respecting commercial intercourse.

"I have prepared an official letter to you on the affair of the Chesapeake; but as Mr. Erving leaves town for Liverpool in the morning, there is not time to copy it. It shall be forwarded, however, by Mr. Morier, who is about to sail in the British frigate Venus, for New York; or sent to

Liverpool to the care of Mr. Maury. In the mean time it will be sufficient to state to you, that I am expecting every day lord Wellesley's written overture in that affair, and that in our conferences, which resulted in an understanding that he would make such an overture, no objection was made by him to an engagement to restore the men to the ship from which they were forcibly taken, without the offensive reservation prescribed to Mr. Rose and Mr. Erskine, and contained in Mr. Jackson's project; to offer a suitable provision, without any reservation, for the families of the sufferers, as a part of the terms of satisfaction; to forbear all reference, in the papers leading to or containing the arrangement to the President's proclamation, or to any thing connected with it; to adopt in those papers a style and manner not only respectful, but kind to our government; to recite in them (as in Mr. Erskine's letter to you in April, 1809) that admiral Berkley had been promptly disavowed, and as a mark of his Britannic majesty's displeasure, recalled from an important command. I have met on this occasion with nothing of a discouraging nature, except on the impracticable point of the trial and punishment of the offending officer. On that point it is impossible to prevail; but there will be no objection to my declaring, in a reply to the overture, the expectation of the American government, that the officer shall be tried and punished, or to a rejoinder, (if I wish it) on the part of lord Wellesley, suggesting in a friendly way the reasons for not fulfilling that expectation."

Mr. Pinkney to Mr. Smith.

LONDON, JUNE 26, 1810.

SIR,

LORD WELLESLEY's answer to my letter of the 30th of April, concerning the British blockades of France anteriour to the Berlin decree, being still delayed, I have sent him the letter (of the 23d instant,) of which a copy is now transmitted. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, JUNE 23, 1810.

MY LORD,

I BEG to recall your lordship's attention to the subject of the letter which I had the honour to address to you on the 30th of April last, concerning the British blockades of France anteriour to the Berlin decree.

My government expects from me a communication on that subject, and your lordship will I am sure take pleasure in enabling me, with as little delay as possible, to fulfil that expectation in a satisfactory manner.

I feel confident that after the declaration of France, which I had the honour to state to your lordship in that letter, and to mention in conference before and since its date, there will be no difficulty on the part of his majesty's government in revoking these blockades, or declaring that they are no longer in existence.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, JULY 1, 1810.

SIR,

I HAVE this day had the honour to receive your letter of the 23d and 22d of May by Mr. Parish, and have sent a note to lord Wellesley requesting an interview. He is out of town, but will return to-night or in the morning. The instructions contained in your letter concerning the inequality, supposed to be intended by this government in the state of our diplomatick relations, shall be executed with the discretion which undoubtedly they require; and I am persuaded that the result will be perfectly satisfactory to the President. In the mean time I think I can undertake to assure you, that no change has taken place in the opinion of lord Wellesley, as announced in my private letter to you of the 4th of January, that a minister plenipoten-

tiary of rank should be sent to the United States. Certainly, no idea has been entertained here of a permanent or long continued chargé d'affairs. It could only be intended to send one in the first instance. And I have reason to be confident, that for some time past, it has been in agitation to appoint a minister plenipotentiary without delay, that lord Wellesley has in fact thought of and mentioned a person, and that Mr. Morier's departure has been put off in consequence.

In the case of the *Chesapeake*, I have already stated to you that I think there will be no difficulty, if the farther punishment of Berkeley is not made on our part a *sine qua non*. Your instructions are very clear that this is not to be peremptorily insisted on.

I have nothing to add to my communication of the 26th ultimo concerning the British blockades of France before the Berlin decree, except that I mean to press lord Wellesley on that subject at our next interview as I did at our last. I shall not fail at the same time to draw his attention to the orders in council and the intercourse act.

I need scarcely say that if events should make it proper for me, in obedience to the President's commands, to return to America, (leaving a chargé d'affairs) I shall lose no time in doing so. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, JULY 23, 1810.

SIR,

I FOLLOWED up the conversation with lord Wellesley, mentioned in my letter of the 6th instant, with a short note, of which a copy is enclosed, requesting information concerning the intention of this government to send a minister plenipotentiary, without delay, to the United States, as the successor of Mr. Jackson.

Reflection seems to have suggested to lord Wellesley some objections which did not occur in the course of our conference, to giving this information in an official manner.

I was aware of this on Saturday last; but was not willing to forego a written communication on a matter which had taken a character of some delicacy and importance.

Lord Wellesley has endeavoured to avoid his own difficulty and mine, by sending me the letter (marked "*private*") of which I have now the honour to transmit a copy.

As this letter is in conformity with his verbal assurances in conference, and appears to leave no reasonable doubt upon the point to which it relates, I do not suppose that I can properly undertake to question its sufficiency, either by pressing for a more formal communication, or by taking the step which your instructions, of the 23d of May, in certain circumstances prescribe to me.

I still believe that the affair of the Chesapeake will very soon be brought to a conclusion.

I have the honour to acknowledge the receipt (on the 21st instant, by Mr. Henry Izard) of your letters of the 13th and 16th of last month, and I take this opportunity to thank you for the private letter of the 5th ultimo, received at the same time. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, JULY 7, 1810.

MY LORD,

In pursuance of the conversation which I had the honour to hold with your lordship on the 6th inst. I take the liberty to request information, which I am sure will be readily given, concerning the intention of his majesty's government to send a minister plenipotentiary to the United States, as the successor of Mr. Jackson.

I have no doubt that it is intended to send such a successor without delay, as one of the means of restoring and maintaining the friendly relations of the two countries; but I shall, nevertheless, be glad to be authorized by your lordship to make a communication to that effect to my government. I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY, *&c. &c. &c.*

[PRIVATE.]

Lord Wellesley's Reply to the foregoing.

APSLEY HOUSE, JULY 22, 1810.

SIR,

I THINK it may be difficult to enter upon the subject of your last note, (respecting the diplomatick rank of our minister in America) in any official form.

But I have no difficulty in assuring you that it is my intention immediately to recommend the appointment of an envoy extraordinary and minister plenipotentiary from the king to the United States.

I have the honour to be, &c.

(*Signed*) WELLESLEY.

WM. PINKNEY, Esq. &c. &c. &c.

Mr. Pinkney to Mr. Smith.

LONDON, AUG. 14, 1810.

SIR,

As lord Wellesley still withheld his long expected answer to my note of the 30th of April, respecting the British blockades anteriour to the Berlin decree, and his written overture in the case of the Chesapeake, I sent him on the 8th instant a letter, of which a copy is enclosed. No importunity had before been spared which it became me to use.

I need not trouble you with comments on the obvious unwillingness of this government to touch the first mentioned subject, or any thing connected with its principles and practice respecting blockades, or with the system of the orders in council. Justice and policy both invite it to give the declaration which I have required; and certainly nothing has been omitted on my part to induce it to take that course. I fear, however, that the declaration will be declined, unless indeed lord Wellesley should continue to evade my application by returning no answer to it; a new practice, I think, which, little to be commended as it is,

must, I presume, if persisted in here, be reciprocated in America.

It is truly surprising that in the case of the Chesapeake there should be the same backwardness. I can conjecture no motive for this hesitation to propose, in writing, terms arranged in conference between lord Wellesley and myself in an affair which it is the manifest interest of England to settle as soon as possible. It is now almost six weeks since lord Wellesley last assured me (as he had before more than once assured me) that he would put me in possession of his formal overture in this case *immediately*. He knows that you have been made officially acquainted with that assurance; for I thought it advisable to submit to his perusal, before it was transmitted (for the purpose principally of avoiding misunderstandings) my short letter to you of the 6th of last month, which states that "in the business of the Chesapeake he will write to me in a few days," and further, that in that business "I do not expect any difficulty."

There can be no misconception as to the *terms* to be offered; for, besides that they were stated with great precision in the conference alluded to in my letter to you of the 6th ultimo, as well as in several antecedent interviews, I wrote lord Wellesley the day after that conference a *private* note of which a copy is now transmitted, enclosing a memorandum in pencil of the terms which (exclusive of any further mark of displeasure to admiral Berkeley, very decidedly discouraged by lord Wellesley) had been spoken of in our different conversations as fit to be proposed. I do not find that I retained any copy of the memorandum in pencil; but the terms (agreeing in substance with those to which I informed you in my letter of the 13th of June last, lord Wellesley had no objection) were to this effect.

1. The overture to contain such a recital or statement, as is found in Mr. Erskine's letter to you of the 17th of April, 1809, of the prompt disavowal by his Britannic majesty of the unauthorized act of his naval officer, whose recall, as a mark of the king's displeasure, from a highly important and honourable command, immediately ensued.

2. To offer, *without any reservation*, the restoration of the men *to the ship from which they were forcibly taken.*

3. To offer, *without any reservation*, and *as a part of the terms of the international adjustment*, a suitable pecuniary provision for the families of the persons slain in the attack, and for the wounded survivors.

It was moreover understood, that the paper proffering these terms would not contain the allusions which have heretofore occasioned embarrassment; that the whole affair would be made to take the most friendly character, and that I should be at liberty to express in my reply to the overture, if I thought fit, the expectation of my government as to the further punishment of admiral Berkely.

I ought to add that, in all my conversations with lord Wellesley on the case of the Chesapeake, he has shown not only a disposition but a wish to accommodate it, and that I am therefore the more astonished at the delay which has taken place.

In a few days I intend to renew my efforts to bring this matter to a conclusion, and to obtain an answer of some sort to my letter of the 30th of April. I am sufficiently inclined to present a strong paper upon both subjects, but in the actual posture of affairs, and in the absence of such instructions from you as would countenance such a step, I think it my duty to forbear a little longer.

It is not impossible that lord Wellesley's backwardness to close the case of the Chesapeake with me, may arise from a desire that it should be adjusted in America through the new minister. If this were so, however, he could have no inducement to conceal it from me, since he is aware that I have always entertained the same desire. When I see him I will advert to this.

I am not yet able to say positively who the new minister will be. Lord and some others are spoken of. Lord Wellesley has given me no other written information on the subject than is contained in his letter of the 22d ultimo, already communicated to you. His verbal information has been to the same effect, with this addition, that

he retained his opinion (mentioned in my unofficial letter to you of the 4th of January last) that the minister to America ought to be a man of rank. As far as may be prudent I shall not fail to do all in my power to expedite the appointment.

The letter from general Armstrong, to which my letter of the 8th instant to lord Wellesley alludes, is dated the 24th of July; and expresses his wish that the declaration of the British government concerning the blockades may be obtained and forwarded without delay.

I have the honour to be &c.

(*Signed*) WM. PINKNEY.

The Hon. Robert Smith, &c. &c. &c.

Mr. Pinkney to Mr. Smith.

LONDON, AUGUST 18, 1810.

SIR,

I ENCLOSE the Times newspaper of this morning, containing a copy of a French decree of the 5th instant, and of a letter of the same date, from the French minister for foreign affairs to general Armstrong. The last is a most important paper, of which I hope to receive without delay an official communication. I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, AUGUST 21, 1810.

SIR,

I HAVE just received a communication from general Armstrong, dated the 6th instant, announcing the absolute revocation of the Berlin and Milan decrees, and have, in consequence, sent a note to lord Wellesley, requesting to see him. Lord Wellesley is out of town, but will, it is said, return to-night or to-morrow morning.

General Armstrong has not transmitted any copy of the official notice mentioned in his letter; but I presume it is the same with that published in the Moniteur of the 9th,

of which I am in possession, and with which the quotation in general Armstrong's letter agrees.

I do not know whether his construction of that document will be thought here to be liable to any objections. I think it impossible, however, that upon any interpretation of it this government can hesitate to repeal its orders in council.

A copy of general Armstrong's letter to me is enclosed.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Copy of General Armstrong's Letter to Mr. Pinkney.

PARIS, AUGUST 6, 1810.

SIR,

I HAVE the honour to inform you that his majesty the emperour and king, has been pleased to revoke his decrees of Berlin and Milan. Of this interesting fact, I had this morning a written and official notice, in the following words, viz.

"Je suis autorisé à vous declarer, monsieur, que les décrets de Berlin et de Milan sont revoqués, et, qu'a dater du 1er Novembre, ils cesseront d'avoir leur effet."*

Sincerely hoping that you may be able to turn this circumstance to some useful account, I forward it per triplicate, and am, sir, with very great respect, &c. &c.

(*Signed*) JOHN ARMSTRONG.

General Armstrong to Mr. Pinkney.

PARIS, AUG. 7, 1810.

SIR,

I HAZARDED a line or two yesterday by the way of Morlaix, merely to inform you that the imperial decrees of Berlin and Milan were at last given up. I now send you by a more direct conveyance a copy of the duke of Cadore's letter to me of the 5th instant, and am, sir, with very great respect, &c. &c.

(*Signed*) JOHN ARMSTRONG.

* *Translation.* "I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November, they will cease to have effect."

Extract of a Letter from Mr. Pinkney to Mr. Smith.

"LONDON, FRIDAY, AUG. 24, 1810.

"I TRANSMIT a copy of my answer formed upon your recent instructions, to lord Wellesley's notification of the blockade of Corfou. Is it not worthy of a reflection, whether an attempt to blockade an entire sea, like the Adriatic, should not be protested against, whatever may be the force employed in closing the passage to it?"

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, AUG. 21, 1810.

MY LORD,

I HAVE had the honour to receive your official note of the 18th instant, communicating the resolution of the British government to establish a blockade of the canal of Corfou, and shall not fail to transmit a copy of it, with as little delay as possible, to the Secretary of State of the United States.

In the mean time I take the liberty, in pursuance of the sentiments of the President heretofore signified to me, to observe to your lordship that, as a blockade essentially implies a force on the spot for the purpose, and as the notification required in the case must be a warning to neutral traders of the fact that a blockade exists, the communication which your lordship has made to me, derives its title to the acknowledgments of the United States from the supposition that it was meant as a friendly premonition, which, though imposing of itself no legal restraint on neutrals, nor inducing any penal consequences, might usefully influence the course of their mercantile expeditions. In this sense the communication will be received by the President as a mark of that friendly attention which ought, in all cases, to be reciprocally maintained, and in this sense the President will be the more disposed to regard the communication, as a different one would contradict the definition of a blockade, and of the requisite notification thereof, con-

tained in the orders of the British government to commodore Hood and the judges of the vice-admiralty courts, as communicated to the American government by Mr. Merry, on the 12th of April, 1804.

I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, AUG. 29, 1810.

SIR,

I DINED yesterday with lord Wellesley, and found that he had only returned to town in the morning. He still complained of indisposition; but it certainly could not be considered as unfitting him for business. In a short conversation before dinner he told me that my note respecting the Berlin and Milan decrees should be mentioned to his colleagues to-day, and that I should have an immediate answer; that the affair of the Chesapeake "would be settled to my satisfaction;" that he believed he should recommend to the king the appointment of a minister plenipotentiary to the United States, either this week or the next; that he had two persons in his eye, (both men of high rank) but that he could not with propriety name them to me at present.

As far as the opportunity permitted I urged promptitude on all these subjects as indispensable, and expressed my confidence that they would be disposed of in season for the approaching meeting of Congress.

You perceive that notwithstanding past promises, nothing has yet been done; and that there is no security that we shall have any thing but promises. I am truly disgusted with this, and would, if I followed my own inclination, put a speedy end to it. It is better, however, to do nothing of an irritating nature until this government has had full time for acting upon my note of the 25th. Even if it should decline to repeal the orders in council (which I am told is quite possible) a moderate course on my part will have the recommendation of putting it more clearly in the

wrong. If it should decline to repeal, the President may be assured that I will not fail to present such a paper as conduct so extraordinary will demand, and, if further delays are affected, that I will remonstrate in very decided terms. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, SEPT. 3, 1810.

SIR,

LORD WELLESLEY sent me his answer yesterday to my note of the 25th ultimo, respecting the Berlin and Milan decrees. I hasten to transmit a copy of it. A copy shall be sent, without delay, to general Armstrong.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, AUG. 25, 1810.

MY LORD,

I HAVE the honour to state to your lordship, that I have received from general Armstrong, minister plenipotentiary of the United States at Paris, a letter bearing date the 6th instant, in which he informs me that the government of France has revoked the decrees of Berlin and Milan, and that he has received a written and official notice of that fact in the following words: "Je suis autorisé à vous declarer, monsieur, que les décrets de Berlin et de Milan sont revoqués, et, qu'a dater du 1er Novembre, ils cesseront d'avoir leur effet."

I take for granted that the revocation of the British orders in council of January and November, 1807, and April, 1809, and of all other orders, dependent upon, analogous to, or in execution of them, will follow of course; and I shall hope to be enabled by your lordship, with as little delay as possible, to announce to my government that such revocation has taken place. I have the honour, &c. &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY, *&c. &c. &c.*

Lord Wellesley to Mr. Pinkney—in reply to the foregoing.

FOREIGN OFFICE, AUG. 31, 1810.

SIR,

I HAVE the honour to acknowledge the receipt of your letter under date the 25th inst.

On the 23d of February, 1808, his majesty's minister in America, declared to the government of the United States —"his majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary."

I am commanded by his majesty to repeat that declaration, and to assure you that whenever the repeal of the French decrees shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which it stood previously to the promulgation of those decrees, his majesty will feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt.

I have the honour to be, &c.

(*Signed*) WELLESLEY.

Wm. Pinkney, Esq.

Mr. Pinkney to General Armstrong.

LONDON, SEPT. 3, 1810.

SIR,

I RECEIVED yesterday from lord Wellesley an answer dated the 31st of last month, to my note of the 25th, in which I communicated to him the purport of your letter to me of the 6th, respecting the Berlin and Milan decrees; and I hasten to put you in possession (by a special messenger) of a copy of each of those papers, to be used according to your discretion.

It is extremely desirable that I should have, without loss of time, the benefit of such reflections upon this answer as

you may be disposed to favour me with, and of such information, calculated to regulate my course with regard to it, as your local position may enable you to furnish.

Your letters of the 6th and 7th ultimo concur in representing (with perfect propriety I think) that the revocation of the Berlin and Milan decrees is to take effect *absolutely* after the 1st of November, and I have so put it to the British government. You will let me know if any errour (which I do not in the least suspect) has been discovered in this representation, or if it is necessary that the subject should be brought before this government in any other form than that which, looking to your representation, I have chosen.

You will perceive that the pledge contained in lord Wellesley's answer is referred to the period when the repeal of the French edicts shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which those edicts found it. In case there is nothing equivocal in these last expressions, the pledge is, I presume, sufficient for the present, if the recall of the French decrees does not depend on a condition precedent as some have supposed. If, on the other hand, it is understood that before the French repeal is to take effect, namely, before the 1st or 2d of November, Great Britain must revoke her orders in council, so that the orders shall cease to operate at the same moment with the decrees; or if it is understood that the British blockades, to which France objects (that of May, 1806, for example) must be recalled, or declared not to be in force, before the same period, then undoubtedly the pledge is nothing.

If the pledge is sufficient, we have only to let the matter rest until November. If it is insufficient, I cannot be too soon employed in taking a new course. I ought to mention, however, that I am now preparing a note to lord Wellesley, to be presented in a few days, concerning the *blockades*. This step is proper, and I think indispensable, whether the revocation of the decrees of France depends upon those blockades being put out of the way or not.

Begging you to let me hear from you as soon as convenient, I am, sir, &c.

(*Signed*) WM. PINKNEY.

His Excellency Gen. Armstrong, &c. &c. &c.

Mr. Pinkney to Mr. Smith.

LONDON, SEPT. 4, 1810.

SIR,

I have just received your letters by lieutenant Spence. Their dates are as follows: 17th July, 1810; 5th July, (original and duplicate;) 2d July (original and duplicate;) 30th June (original and duplicate;) 16th June (duplicate; the original had been received before;) 13th June (duplicate; the original had already been received.)

I have only time to add, that the repeal of the French decrees (as communicated to me by general Armstrong) and the reply of Lord Wellesley of the 31st ult. to my communication on that subject, do not appear to me to take away the necessity of executing the instructions contained in your letters of the 2d and 5th of July relative to the British blockades, although they may affect the manner of executing those instructions. The note which I intend to present on this occasion will be ready in a day or two, and shall be sent in immediately.

I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

P. S. Lord Wellesley sent me a message yesterday, through Mr. Hamilton, that, if I still wished to see him on the subject of my late communication, he would receive me to day. I replied that I had no wish to see him on that subject; but that it might be necessary to write him a note upon it hereafter. I mean to confine myself as much as possible to written intercourse with lord Wellesley.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, SEPT. 7, 1810.

SIR,

It has been supposed here that the notification of a blockade of "the canal of Corfou," on the 18th of last month, was intended to close the Adriatic, and the English newspapers, as you will have perceived, so represented it. In my letter to you of the 20th ultimo, communicating a copy of that notification, I have adopted this construction, which now appears to be erroneous. The "canal," to which the notification is now understood to apply, is the narrow passage to the eastward of Corfou.

I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, SEPT. 15, 1810.

SIR,

I send enclosed a copy of a second letter which I have written to lord Wellesley, respecting the stoppage of American vessels attempting to pass the sound; together with a copy of the protest of the master of the American ship "Alert," mentioned in that letter, which is well entitled to your attention. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, SEPT. 15, 1810.

MY LORD,

In my note of the 1st instant, I had the honour to inform your lordship, that it had been stated to me in a letter from Gottenburgh, that in consequence of some misconception of the effect of the order for establishing a blockade of Elsinore in May last, American vessels had recently been prevented from passing the sound by the English naval force in that quarter, and I requested that if this

statement was correct, such explanations might be transmitted to the British commander as might at least confine the blockade in question to the port against which it had been professedly instituted.

As I have not received any answer to that note, and consequently do not know whether any order has been given to remove the interruption which it mentions, I feel it to be necessary to lay before your lordship the enclosed original protest of the master of the American ship "Alert," which appears to establish the existence of that interruption in a form as exceptionable as it could possibly assume.

Whatever may be the ground upon which sir James Saumarez has thought fit to issue his orders to close the passage of the Sound to American vessels returning in the prosecution of a lawful trade to the United States, or proceeding in a contrary direction, your lordship will, I am persuaded, think with me that my government has a fair claim to be made acquainted, either through me or through such other channel as your lordship may deem more proper, with the intentions of the British government on the subject.

Before I conclude this letter I must call your lordship's attention to the particular circumstances of the case which has mainly produced it, and to the redress which those circumstances plainly require.

The "Alert" has been seized and sent to England by the "Africa" for *salvage*. The peril from which she was saved, if she was saved from any peril, was created by the injustice of the capturing vessel in turning her from the regular course of her homeward voyage.

That the commander of the "Africa," or those under whom he acted, should be responsible to the utmost for the loss occasioned by that injustice, seems to be perfectly reasonable; but it is difficult to imagine in what way he can expect to derive from it a right to inflame the loss for his own advantage. I trust that the attempt will be repressed in a suitable manner, and that, in place of salvage to be paid by the injured neutral, compensation will in some

mode or other be awarded to him for the damages he has been made to sustain.

The impressment on board the "Alert," of four American seamen by the "Africa," cannot be passed unnoticed. This abuse could not fail to be interesting under any circumstances; but on this occasion (supposing the enclosed narrative to be true,) it is not only characterised by an utter disregard of the rights of the American government, and by the oppression of its citizens, but is practised under a show of friendly protection, and aggravated by every practical wrong which could well be associated with it. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, SEPT. 21, 1810.

MY LORD,

On the 30th of April last, I had the honour to address a note to your lordship, in which, upon the inducements which it stated, I took the liberty to inquire, whether there was any objection, on the part of his majesty's government, to a revocation, or to a declaration that they were no longer in force, of the British blockades of France of a date anteriour to the Berlin decree.

In a second note of the 23d of June, I had the honour to recall your lordship's attention to that inquiry, and to add, that my government expected from me a communication upon it. And on the 8th of August, it was again brought to your lordship's recollection, in the same mode. It was moreover mentioned in several conversations after the delivery of my first note, which had, in fact, been preceded by verbal explanations on my part, as well as by an abortive correspondence in writing, to which some of those explanations were preparatory.

If I had been so fortunate as to obtain for my hitherto unanswered inquiry, the notice which I had flattered myself it might receive, and to which I certainly thought it was recommended by the plainest considerations of poli-

cy and justice, it would not, perhaps, have been necessary for me to trouble your lordship with this letter, the purpose of which is, in very few words, to remind his majesty's government, in pursuance of my instructions, of the sentiments and expectations of the government of the United States, respecting such blockades as that which my inquiry principally regarded.

Those sentiments and expectations are so well explained in two letters, from Mr. Secretary Madison, of the 27th October, 1803, to Mr. Thornton, and of the 3d of June, 1806, to Mr. Merry, that very little more is required, in the execution of my instructions on this occasion, than that I should refer your lordship to the copies of those letters which are herewith transmitted.

Your lordship will perceive, that the strong and conclusive objections, in law and reason, to be found in those papers, (especially in the first, which was occasioned by a communication from the British consul, at New York, of a notice from commodore Hood, in July, 1803, that the islands of Martinique and Guadaloupe were, and for some time had been blockaded) apply to several blockades which Great Britain has lately pretended to establish; but in a particular manner to that of May, 1806, (from the Elbe to Brest inclusive;) to that in the spring of 1808, of the whole island of Zealand, and to that in March, 1809, of the isles of Mauritius and Bourbon.

The government of the United States can discover no just foundation for these and other similar attempts to blockade entire coasts, by notifications with which the fact has no correspondence. It views them as unwarrantable prohibitions of intercourse, rather than regular blockades; and as resembling, in all their essential qualities, the extraordinary decrees and orders, which, for the last four years, have nearly obliterated every trace of the publick law of the world, and discouraged, by menaces of hostile interruption, and pursued with seizure and confiscation, the fairest and most innocent trade of neutral merchants.

It may now be hoped that those decrees and orders are

about to disappear for ever; and I think I may presume, as my government expects, that no blockade like that of May, 1806, will survive them.

Your lordship has informed me, in a recent note, that it is "his majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity." And I cannot suppose that this freedom is understood to be consistent with vast constructive blockades, which may be so expanded at pleasure as, without the aid of any new device, to oppress and annihilate every trade but that which England thinks fit to license. It is not, I am sure, to *such* freedom that you lordship can be thought to allude. I am the more inclined to be confident on this point, because I have now before me a well known official exposition, conceived in terms the most exact, of the British doctrine of blockade as it stood in 1804, contained in the reply of Mr. Merry, his majesty's minister in America, to the very able remonstrance above mentioned, from Mr. Madison to Mr. Thornton.

In that reply, (of the 12th of April, 1804) it is formally announced to the government of the United States, "by his majesty's command, signified to Mr. Merry, by the principal secretary of state for foreign affairs," that for 'redressing the grievance complained of' by the American government, orders had been sent to commodore Hood (and the necessary directions given to the vice-admiralty courts in the West Indies and America)" not to consider any blockade of the islands of Martinique and Guadaloupe as existing, unless in respect of particular ports which might be actually invested; and then not to capture vessels bound to such ports, unless they should previously have been warned not to enter them."

It is natural to conclude that, though the "grievance," which this frank communication condemns, has been since so often repeated, as almost to make us lose sight of the rule in the multitude of its violations, your lordship could not speak of the restoration of the just freedom of commerce as an event desired by Great Britain, without some

reference to the neglected doctrine of this paper, and without some idea of reviving it.

With regard to the blockade of May, 1806, I regret that I have failed to obtain an admission, apparently warranted by facts and invited by circumstances, that it is not in force.

Your lordship's answers to my letters of the 15th of February, and 7th of March last, appear to justify the opinion, that this blockade sunk into the orders in council of 1807, with which it was perfectly congenial. It can scarcely be said that, since the promulgation of those orders, there has been even a show of maintaining it, as an actual blockade, by a stationary force, adequate or inadequate, distributed with that view along the immense line of coast which it affected to embrace. And, if it has not been constantly so maintained, nor even attempted to be maintained, as an actual blockade, but has yielded its functions since 1807, to orders in council, neither being, nor professing to be actual blockades, it may, I imagine, be very safely asserted that it exists no longer. But as this conclusion has not been adopted, but has rather been resisted by your lordship, it is my duty, in transmitting the enclosed copy of an act of the Congress of the United States, passed on the 1st of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," to state to your lordship that an annulment of the blockade of May, 1806, is considered by the President to be as indispensable, in the view of that act, as the revocation of the British orders in council.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY, *&c. &c. &c.*

Mr. Pinkney to Mr. Smith.

LONDON, SEPT. 28, 1810.

SIR,

I HAVE already sent you a copy of lord Wellesley's reply to that part of my letter of the 15th instant, which parti-

cularly respected the case of the *Alert*. The amount of that reply was, that government could not interfere, and that the case must be left to the court of admiralty.

I now transmit his answer to that part of my letter which regarded the effect of the blockade of Elsinore (as it was interpreted by sir James Saumarez) on the passage of the Sound; from which it appears that it is not *yet* intended to close that passage.

No notice has been taken of the residue of my letter concerning the four American seamen taken from the Alert.

As I have transmitted you a copy of lord Wellesley's reply to my application for the release of the *Mary*, from which it was to be inferred that she would be immediately released, I ought now to mention that so far from being released, she is to be forthwith proceeded against as prize! These things require a large stock of patience.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, SEPT. 26, 1810.

THE marquis Wellesley has the honour to acquaint Mr. Pinkney, in answer to that part of his letter of the 15th instant, relating to an alleged misconception of the order of council for the blockade of Elsinore, that it is the intention of his majesty's government, that that blockade should be strictly confined to the port of Elsinore, and that it does not affect any vessels professedly bound up the Sound, unless it should appear from their papers that they are bound to Elsinore.

The marquis Wellesley begs to renew to Mr. Pinkney the assurances of his high consideration.

WILLIAM PINKNEY, Esq. &c. &c. &c.

Mr. Pinkney to Mr. Smith.

LONDON, OCT. 3, 1810.

SIR,

LORD WELLESLEY'S communication concerning the passage of the Sound was supposed by a merchant here, to whom I showed it, to be ambiguous, by reason of the expressions "bound *up* the Sound," &c.

The ambiguity has, however, been removed (if indeed there was any) by a note which I have just received from the foreign office in answer to one from me.

It says, that "no vessels will be subject to the restrictions of the blockade of Elsinore, but such as may be going to that port, *in whatever direction they may be passing the Sound.*" It says further, that "the equivoque in the original communication was certainly not intentional."

I have the honour to be, &c. &c.

(Signed) WM. PINKNEY.

Extract of a Letter from General Armstrong to Mr. Smith, dated Paris, Jan. 28, 1810.

"M. CHAMPAGNY stated, that the order given in relation to our ships, &c. &c. in Spain was a regular consequence of the system declared in his letter of the 22d of August last, and which had been promulgated throughout the United States. 'It is obvious,' he added, 'that his majesty cannot permit to his allies a commerce which he denies to himself. This would be at once to defeat his system and oppress his subjects, by demanding from them great and useless sacrifices; for if the system be not strictly observed every where, it cannot any where produce the effects expected from it. Still, he said, the property is only sequestered, and becomes a subject of the present negotiation.' As our remonstrances have been sufficiently frequent and free; as this was a meeting merely of conciliation, and as the closing remark of the minister indicated rather the policy of looking forward to our rights than

backward on our wrongs, I thought it most prudent to suppress the obvious answers which might have been given to his observations, and which, under other circumstances, should not have been omitted. I accordingly contented myself with expressing a hope, that our future intercourse should be a competition only of good offices."

"In conformity to the suggestions contained in your letter of the 1st of December, 1809, I demanded whether, if Great Britain revoked her blockades of a date anteriour to the decree commonly called the Berlin decree, his majesty the emperour would consent to revoke the said decree? to which the minister answered, that "the only condition required for the revocation by his majesty of the decree of Berlin, will be a previous revocation by the British government of her blockade of France, or part of France (such as that from the Elbe to Brest) of a date anteriour to that of the aforesaid decree, and that if the British government would then recall the orders in council which had occasioned the decree of Milan, that decree should also be annulled. Our interview closed here, and we have had no meeting, either accidental or by rendezvous since."

Extracts of a Letter from General Armstrong to Mr. Smith, dated Paris, February 17, 1810.

"THE note from M. Champagny, a copy of which is enclosed, was received yesterday.

"This goes by the way of England, and may not be much later in reaching you than my despatch of the 28th ult. which took the same road."

[TRANSLATION.]

THE undersigned has rendered an account to his majesty the emperour and king, of the conversation he has had with Mr. Armstrong, minister plenipotentiary of the United States of America. His majesty authorizes him to give the following answer:

His majesty should consider his decrees of Berlin and Milan as violating the principles of eternal justice, if they were not the compelled consequence of the British orders in council, and above all, of those of November, 1807. When England has proclaimed her sovereignty universal, by the pretension of subjecting the universe to a tax on navigation, and by extending the jurisdiction of her parliament over the industry of the world, his majesty thought that it was the duty of all independent nations to defend their sovereignty, and to declare as denationalized (denationalises) those vessels which should range themselves under the domination of England, by recognising the sovereignty which she arrogated over them.

His majesty distinguishes the search (*la visite*) from the recognition (reconnaissance) of the vessel. The recognition has no other end than to ascertain the reality of the flag. The search is an interior inquest held, although the verity of the flag be ascertained, and of which the result is either the impressment of individuals, or the confiscation of merchandise, or the application of arbitrary laws or regulations.

His majesty could place no reliance on the proceedings of the United States, who having no ground of complaint against France comprised her in their acts of exclusion, and since the month of May have forbidden the entrance of their ports to French vessels, under the penalty of confiscation. As soon as his majesty was informed of this measure, he considered himself bound to order reprisals on American vessels not only in his territory, but likewise in the countries which are under his influence. In the ports of Holland, of Spain, of Italy and of Naples, American vessels have been seized, because the Americans have seized French vessels. The Americans cannot hesitate as to the part which they are to take. They ought either to tear to pieces the act of their independence, and to become again, as before the revolution, the subjects of England, or to take such measures as that their commerce and industry should not be tariffed (tarifes) by the English, which ren-

ders them more dependent than Jamaica, which at least has its assembly of representatives and its privileges. Men without just political views, (sans politique) without honour, without energy, may allege that payment of the tribute imposed by England may be submitted to, because it is light; but why will they not perceive that the English will no sooner have obtained the admission of the principle, than they will raise the tariff in such way, that the burden at first light, becoming insupportable, it will then be necessary to fight for interest after having refused to fight for honour.

The undersigned avows with frankness, that France has every thing to gain from receiving well the Americans in her ports. Her commercial relations with neutrals are advantageous to her. She is in no way jealous of their prosperity; great, powerful and rich, she is satisfied when, by her own commerce, or by that of neutrals, her exportations give to her agriculture and her fabricks the proper development.

It is now thirty years since the United States of America founded, in the bosom of the new world, an independent country, at the price of the blood of so many immortal men, who perished on the field of battle to throw off the leaden yoke of the English monarch. These generous men were far from supposing, when they thus sacrificed their blood for the independence of America, that there would so soon be a question whether there should be imposed upon it a yoke more heavy than that which they had thrown off, by subjecting its industry to a tariff of British legislation, and to the orders in council of 1807.

If then the minister of America can enter into an engagement, that the American vessels will not submit to the orders in council of England of November, 1807, nor to any decree of blockade, unless this blockade should be real, the undersigned is authorized to conclude every species of convention tending to renew the treaty of commerce with America, and in which all the measures proper to consolidate the commerce and the prosperity of the Americans shall be provided for.

The undersigned has considered it his duty to answer the verbal overtures of the American minister by a written note, that the President of the United States may the better know the friendly intentions of France towards the United States, and her favourable disposition to American commerce.

The undersigned prays Mr. Armstrong to accept the assurance of his high consideration.

(*Signed*) CHAMPAGNY,
Duc de Cadore.

Paris, Feb. 14, 1810.

His excellency the Minister Plenipotentiary of the United States.

General Armstrong to Mr. Smith.

PARIS, FEB. 18, 1810.

SIR,

I WROTE a few lines to you yesterday announcing the receipt and transmission of a copy of the duke of Cadore's note to me of the 14th instant.

After much serious reflection I have thought it best to forbear all notice at present of the errours, as well of fact as of argument, which may be found in the introductory part of this note; to take the minister at his word; to enter at once upon the proposed negotiation, and for this purpose to offer to him a projét for renewing the convention of 1800.

This mode will have the advantage of trying the sincerity of the overtures made by him, and perhaps of drawing from him the precise terms on which his master will accommodate. If these be such as we ought to accept, we shall have a treaty in which neither our rights nor our wrongs will be forgotten; if otherwise, there will be enough, both of time and occasion, to do justice to their policy and our own by a free examination of each.

With very great respect, &c. &c.

(*Signed*) JOHN ARMSTRONG.

The Hon. Mr. SMITH, &c. &c. &c.

Extract of a Letter from General Armstrong to Mr. Smith.

MARCH 10, 1810.

"I HAVE at length received a verbal message in answer to my note of the 21st ult. It was from the minister of foreign relations and in the following words: 'His majesty has decided to sell the American property seized in Spain, but the money arising therefrom shall remain in depot.' This message has given occasion to a letter from me (marked No. 2) in a temper somewhat different from that of the 18th of February."

General Armstrong to the Duke of Cadore.

PARIS, MARCH 10, 1810.

SIR,

I HAD yesterday the honour of receiving a verbal message from your excellency, stating, that his majesty had decided, that "the American property seized in the ports of Spain should be sold, but that the money arising therefrom should remain in depot."

On receiving this information, two questions suggested themselves:

1. Whether this decision was or was not extended to ships as well as to cargoes? and

2. Whether the money arising from the sales which might be made under it, would or would not be subject to the issue of the pending negotiation?

The gentleman charged with the delivery of your message not having been instructed to answer these questions, it becomes my duty to present them to your excellency, and to request a solution of them: Nor is it less a duty on my part to examine the ground on which his majesty has been pleased to take this decision, which I understand to be that of *reprisal*, suggested for the first time in the note you did me the honour to write to me on the 14th ultimo. In the 4th paragraph of this note it is said, that "his majesty could not have calculated on the measures taken by the United States, who, having no ground of com-

plaint against France, have comprised her in their acts of exclusion, and since the month of May last, have prohibited the entry into their ports of French vessels by subjecting them to confiscation." It is true that the United States have since the 20th of May last forbidden the entry of French vessels into their harbours, and it is also true that the penalty of confiscation attaches to the violation of this law. But in what respect does this offend France? Will she refuse to us the right of regulating commerce within our own ports? Or will she deny that the law in question is a regulation merely municipal? Examine it both as to object and means. What does it more than forbid American ships from going into the ports of France, and French ships from coming into those of the United States? And why this prohibition? To avoid injury and insult; to escape that lawlessness which is declared to be "a forced consequence of the decrees of the British council." If then its object be purely defensive, what are its means? Simply a *law*, previously and generally promulgated, operating solely within the territory of the United States, and punishing alike the infractors of it, whether citizens of the said states or others. And what is this but the exercise of a right, common to all nations, of excluding at their will foreign commerce, and of enforcing that exclusion? Can this be deemed a wrong to France? Can this be regarded as a legitimate cause of reprisal on the part of a power, who makes it the first duty of nations to defend their sovereignty, and who even denationalizes the ships of those who will not subscribe to the opinion?

But it has been said that the "United States have nothing to complain of against France."

Was the capture and condemnation of a ship driven on the shores of France by stress of weather and the perils of the sea, nothing? Was the seizure and sequestration of many cargoes brought to France in ships violating no law, and admitted to regular entry at the imperial custom houses, nothing? Was the violation of our maritime rights, consecrated as they have been by the solemn forms of a

publick treaty, nothing? In a word, was it nothing that our ships were burnt on the high seas without other offence than that of belonging to the United States, or other apology than was to be found in the enhanced safety of the perpetrator? Surely if it be the duty of the United States to *resent* the theoretical usurpations of the British orders of November, 1807, it cannot be less their duty to *complain* of the daily and practical outrages on the part of France. It is indeed true, that were the people of the United States destitute of policy, of honour and of energy, (as has been insinuated,) they might have adopted a system of discrimination between the two great belligerents; they might have drawn imaginary lines between the first and second aggressor; they might have resented in the one a conduct to which they tamely submitted in the other; and in this way have patched up a compromise between honour and interest, equally mean and disgraceful. But such was not the course they pursued, and it is perhaps a necessary consequence of the justice of their measures, that they are at this day an independent nation. But I will not press this part of my subject; it would be affrontful to your excellency (knowing as you do, that there are not less than one hundred American ships within his majesty's possession, or that of his allies) to multiply proofs, that *the United States have grounds of complaint against France.*

My attention is necessarily called to another part of the same paragraph, which immediately follows the quotation already made. "As soon," says your excellency, " as his majesty was informed of this measure, (the non-intercourse law) it became his duty to retaliate on the American vessels, not only within his own territories, but also within the countries under his influence. In the ports of Holland, Spain, Italy and Naples, the American vessels have been seized, because the *Americans had seized French vessels.*"

These remarks divide themselves into the following heads:

1. The right of his majesty to seize and confiscate American vessels within his own territories.

2. The right to do so within the territories of his allies; and

3. The reason of that right, viz. *because Americans had seized French vessels.*

The first of these subjects has been already examined, and the second must be decided like the first, since his majesty's rights within the limits of his ally cannot be greater than within his own. If then it has been shown, that the non-intercourse law was merely defensive in its object; that it was but intended to guard against that state of violence which unhappily prevailed; that it was restricted in its operation to the territory of the United States, and that it was duly promulgated there and in Europe before execution, it will be almost unnecessary to repeat, that a law of such description cannot authorize a measure of *reprisal*, equally sudden and silent in its enactment and application, founded on no previous wrong, productive of no previous complaint, and operating beyond the limits of his majesty's territories, and within those of sovereigns who had even *invited* the commerce of the United States to their ports.

It is, therefore, the third subject only, *the reason of the right*, which remains to be examined; and, with regard to it, I may observe, that if the alleged fact, which forms this reason, be unfounded, the reason itself fails, and the right with it. In this view of the business, I may be permitted to inquire, when and where any seizure of a French vessel has taken place, under the non-intercourse law? And, at the same time, to express my firm persuasion, that no such seizure has been made; a persuasion, founded alike on the silence of the government and of the journals of the country, and still more, on the positive declaration of several well informed and respectable persons, who have left America as late as the 26th of December last. My conclusion, therefore, is, that no *French vessel* having violated the law, no seizure of such *vessel* has occurred; and that the report, which has reached Paris, is probably founded on a circumstance altogether unconnected with the non-intercourse law or its operation.

Though far from wishing to prolong this letter, I cannot close it without remarking the great and sudden change wrought in his majesty's sentiments, with regard to the defensive system adopted by the United States.

The law which is now believed to furnish ground for reprisal, was first communicated to his majesty June or July last, and certainly did not *then* excite any insuspicion of feeling unfriendly to the American government. Far from this, its communication was immediately followed by overtures of accommodation, which, though productive of no positive arrangement, did not make matters worse than they found them.

On the 22d of August last, I was honoured with a full exposition of the views and principles which had governed, and which should continue to govern, his majesty's policy in relation to the United States, and in *this* we do not find the slightest trace of complaint against the provisions of the law in question.

At a period later than the 22d of August, an American ship, destined to a port of Spain, was captured by a French privateer. An appeal was made to his majesty's minister of war, who, having submitted the case, received orders *to liberate all American vessels, destined to Spanish ports, which had not violated the imperial decrees.* Another American ship, at a point of time still later than the capture of the preceding, was brought into the port of Bayonne, but having violated no law of his majesty, was acquitted by his council of prizes. And, lastly, in the long conversation I had the honour of holding with your excellency, on the 25th of January, no idea of reprisal was maintained by you, nor suspected by me; but, on the contrary, in speaking of the seizure of American property, in Spain, you expressly declared, that it was not a *confiscation.*

Can proofs be more conclusive, that, from the first promulgation of the law down to the 25th of January last, nothing in the nature of a reprisal was contemplated by his majesty?

What circumstance may have since occurred, to produce a change in his opinion, I know not; but the confidence I

feel in the open and loyal policy of his majesty, altogether excludes the idea, that the rule was merely found for the occasion, and made to justify seizures, not otherwise justifiable. I pray your excellency to accept, &c. &c.

(*Signed*) JOHN ARMSTRONG.

His Excellency the Duke of Cadore, &c. &c. &c.

Extracts of a Letter from General Armstrong to Mr. Smith, dated Paris, April 4, 1810.

"AFTER seven weeks detention in England, the John Adams has at length got back to France. She arrived in the roads of Havre on the 28th ult.

"I informed M. Champagny—1st. That Mr. Pinkney had not been able to send by this conveyance the result of his application to the British government concerning the blockades of France prior to the Berlin decree; but that he hoped to be able to send it in a few days by another conveyance: and 2d. That if he (M. Champagny) had any thing to communicate which would have the effect of changing the present relations of the two countries, and which he wished to be early known to the government of the United States, he would do well to let me know it within twenty-four hours, as the messenger would leave Paris within that time. To this message I received from him the following answer—'that for some days past nothing in the nature of business, and unconnected with the marriage of the emperour, could be transacted; and that for some days to come the same cause of delay would continue to operate; that my letters were still before the emperour, and that he would seize the first moment to get some decision in relation to them.' 'Thus you see every thing is yet in air."

Copy of Mr. Pinkney's Letter to General Armstrong.

LONDON, MARCH 23, 1810.

DEAR SIR,

ALTHOUGH I have detained the corvette much longer than I wished, I am not yet able to send you the result of

my application to this government concerning the British blockades of France prior to the Berlin decree. I expect to receive it in a very few days, and will immediately forward it to you by Mr. Lee, by the way of Morlaix, for it seems that the French government will not permit a messenger to land at any other port.

I have the honour, &c. &c.

(*Signed*) WM. PINKNEY.

His Excellency Gen. ARMSTRONG, &c. &c. &c.

General Armstrong to Mr. Smith.

PARIS, APRIL 16, 1810.

SIR,

THE John Adams being yet detained, I am able to inform you that on the 11th inst. the emperour directed the sale of all the American vessels taken in the ports of Spain, and that the money arising therefrom should be placed in his *caisse privé*. He has also refused to give up the *Hero*, and has ordered that the case be brought before the council of prizes, where condemnation necessarily awaits it. I send a copy of a note upon which this last order was taken, and another relating to our business in Naples, and am, with very high consideration, your most obedient and very humble servant.

(*Signed*) JOHN ARMSTRONG.

The Hon. Mr. SMITH, &c. &c.

Extracts of a Letter from General Armstrong to Mr. Smith, dated Paris, May 3, 1810.

"MR. LEE arrived here some days ago with two letters from Mr. Pinkney, copies of which, with my answer, are enclosed."

"I need scarcely observe how impossible it is for me to make *this*, or *any similar statement* the ground work of a new demand for a repeal of the Berlin decree."

Mr. Pinkney to General Armstrong.

LONDON, MARCH 27, 1810.

SIR,

I HAD the honour to receive by Mr. Powell your letter of the 25th of January. In pursuance of my instructions, I have addressed a letter to the marquis Wellesley, his Britannic majesty's principal secretary of state for foreign affairs, inquiring whether any, and if any, what blockades of France, instituted by Great Britain during the present war, before the 1st of January, 1807, are understood by this government to be in force? Lord Wellesley's reply to that letter not being so explicit as I wished, I have written a second letter, requesting explanation. In his lordship's answer to my second letter, I am informed, that "the blockade notified by Great Britain in May, 1806, (from the Elbe to Brest) has never been formally withdrawn," but that the restrictions which that blockade established are comprehended under the more extensive restrictions of the order in council of the 7th of January, 1807, and that no other blockade of the ports of France, was instituted by Great Britain between the 16th of May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force. I have the honour, &c. &c.

(*Signed*) WM. PINKNEY.

His Excellency Gen. ARMSTRONG, &c. &c. &c.

Mr. Pinkney to General Armstrong.

LONDON, APRIL 6, 1810.

SIR,

I DO not know whether the statement contained in my letter of the 27th of last month will enable you to obtain a recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806, is virtually at an end, being merged and comprehended in an order in council issued after the date of the edict of Berlin. I am,

however, about to try to obtain a formal revocation of that blockade (and of that of Venice) or at least a precise declaration, that they are not in force. As it will not be possible to obtain either the one or the other very soon, (*if, indeed, they can be obtained* at all) I will not detain Mr. Lee, but I will send you another messenger (Mr. Craig, of Philadelphia) in the course of three or four weeks, with the result of my endeavours. In the mean time such use can be made of my communication of the 27th ultimo, as you may deem advisable. I have the honour, &c. &c.

(*Signed*) WM. PINKNEY.

His Excellency Gen. ARMSTRONG, &c. &c. &c.

Extract of a Letter from General Armstrong to Mr. Pinkney, dated Paris, May 2, 1810.

"I HAVE received your three letters of the 3d and 27th of March and 6th of April. Accept my thanks for your friendly attention with regard to the passport, and express to lord Wellesley the sense I have of his lordship's politeness and the pleasure it would give me to make this acknowledgment in person. The doubt with which you begin your letter of the 6th instant is well founded. The explanation you have received is not such as will enable me to demand the performance of the emperour's promise, (communicated to you in my letter of the 25th of January last) since it (the explanation) not only admits that *the British order of blockade of May, 1806, is not formally withdrawn*, but that *that of the 27th of July of the same year, is still in force.* An argument in the face of these admissions, and founded merely on the operation of an order of ulterior date and more extensive restriction, must not be hazarded, as it would be not merely useless, but productive of mischief."

Extract of a Letter from General Armstrong to Mr. Smith, dated Paris, May 24, 1810.

"SOME circumstances have occurred, since the date of my despatch by Mr. Ronaldson, which from their impor-

tance make a speedy conveyance necessary. These I shall detail as briefly as possible.

1st. On the 14th instant was published here in the official and other journals, a decree of the emperour, dated at Rambouillet on the 23d of March last, directing the seizure and sale of all American vessels which had entered the ports of the empire, or of its dependencies, since the 20th of May last, &c. &c. &c.

2d. Four commissioners have been sent to Amsterdam, with orders to take possession of the American property to be found there, agreeably to the 10th article of the late treaty between France and Holland; and,

3d. Several of our ships and cargoes, with regard to which compromises have been made under the sanction of the council of prizes have been seized again to satisfy the provisions of the new decree."

Translation of a Decree issued by the Emperour of the French at Rambouillet, March 23, 1810.

Napoleon, &c. &c. &c. Considering that the government of the United States, by an act dated the 1st of March, 1809, which forbids the entrance of the ports, harbours, and rivers of the said States, to all French vessels, orders, 1st. That after the 20th of May following, vessels under the French flag, which shall arrive in the United States, shall be seized and confiscated as well as their cargoes: 2d. That after the same epoch, no merchandise or produce, the growth or manufacture of France or her colonies, can be imported into the said United States from any foreign port or place whatsoever, under penalty of seizure, confiscation, and a fine of three times the value of the merchandise: 3d. That American vessels cannot go to any port of France, of her colonies or dependencies: We have decreed and do decree what follows:

Art. 1. All vessels navigating under the flag of the United States, or possessed, in whole or in part, by any citizen or subject of that power, which, counting from the

20th of May, 1809, have entered or shall enter into the ports of our empire, of our colonies, or of the countries occupied by our arms, shall be seized, and the product of the sales shall be deposited in the surplus fund (caisse d'amortissement.)

There shall be excepted from this regulation, the vessels which shall be charged with despatches, or with commissions of the government of the said States, and who shall not have either cargoes or merchandise on board.

Our grand judge, minister of justice, and our minister of finance, are charged with the execution of our present decree.

(*Signed*) NAPOLEON.

Extracts from a Letter of Gen. Armstrong to Mr. Smith, dated Paris, August 5, 1810.

"I HAD this morning the honour of receiving the enclosed note from the duke of Cadore, informing me that the imperial decrees of Berlin and Milan are revoked. I shall communicate this fact as promptly as possible to Mr. Pinkney."

"I shall obtain a specifick revocation of the decree of the 23d of March last; but it ought to be known to you that this decree has had no operation since my first unofficial communication of the law of the 1st of May."

The Duke de Cadore to General Armstrong.

[TRANSLATION.]

PARIS, AUG. 5, 1810.

SIR,

I HAVE laid before his majesty, the emperour and king, the act of Congress of the 1st of May, taken from the gazette of the United States, which you have sent to me.

His majesty could have wished that this act, and all the other acts of the government of the United States, which interest France, had always been officially made known to him. In general, he has only had a knowledge of them in-

directly, and after a long interval of time. There has resulted from this delay serious inconveniences, which would not have existed if these acts had been promptly and officially communicated.

The emperour had applauded the general embargo, laid by the United States on all their vessels, because that measure, if it has been prejudicial to France, had in it at least nothing offensive to her honour. It has caused her to lose her colonies of Martinique, Guadaloupe, and Cayenne: the emperour has not complained of it. He has made this sacrifice to the principle which had determined the Americans to lay the embargo, inspiring them with the noble resolution of interdicting to themselves the ocean, rather than to submit to the laws of those who wished to make themselves the tyrants (les dominateurs) of it.

The act of the 1st of March has raised the embargo, and substituted for it a measure the most injurious to the interests of France.

This act, of which the emperour knew nothing until very lately, interdicted to American vessels the commerce of France, at the time it authorized that to Spain, Naples, and Holland, that is to say, to the countries under French influence, and denounced confiscation against all French vessels which should enter the ports of America. Reprisal was a right, and commanded by the dignity of France, a circumstance on which it was impossible to make a compromise (de transigir). The sequester of all the American vessels in France has been the necessary consequence of the measure taken by Congress.

Now Congress retrace their steps, (revient sur sespas); they revoke the act of the 1st of March; the ports of America are open to French commerce, and France is no longer interdicted to the Americans. In short, Congress engages to oppose itself to that one of the belligerent powers which should refuse to acknowledge the rights of neutrals.

In this new state of things, I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked,

and that after the first of November they will cease to have effect; it being understood that, in consequence of this declaration, the English shall revoke their orders in council, and renounce the new principles of blockade which they have wished to establish, or, that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English.

It is with the most particular satisfaction, sir, that I make known to you this determination of the emperour. His majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy.

The independence of America is one of the principal titles of glory to France. Since that epoch the emperour is pleased in aggrandizing the United States, and, under all circumstances, that which can contribute to the independence, to the prosperity, and the liberty of the Americans, the emperour will consider as conformable with the interests of his empire.

Accept, sir, the assurance of my high consideration.

(Signed) CHAMPAGNY,
Duc de Cadore.

His Excellency General ARMSTRONG, *&c.*

General Armstrong to the Duke of Cadore.

[NO DATE.]

SIR,

THE enclosed copy of the law of the United States of the 1st of May last, has been transmitted to me *officially* by the secretary of state, and I hasten to lay it before your excellency. It will supply any want of authenticity which may be found in that already communicated.

In making this second communication of the law, I cannot but recall to your recollection an inference, injurious either to my government, or to myself, which may be drawn from the first paragraph of the letter you did me the honour to write to me on the 5th instant. In this paragraph it is said: " S. M. auroit désiré, que cet acte, et tous les autres actes du gouvernement des Etats Unis, qui peu-

vent intéresser la France, lui eussent toujours éte notifiés officiellement. En general elle n'en a eu connoissance qu'indirectement, et apres un long intervalle du temps. Il resulte de ce retard, des inconveniens graves, qui n'auroient pas lieu, si ces actes etoient promptement et officiellement communiques."*

From these words it may be inferred, either that the United States have been habitually negligent in transmitting to me, such of their acts as concern France, or that I have neglected to perform my duty, in not presenting these acts with sufficient promptitude.

In looking back on the publick measures of the United States, which in any way interest France, I find but the following, viz:

1st. An act prohibiting commercial intercourse between the United States and St. Domingo.

2d. An act laying an embargo on the ships or other vessels of the United States.

3d. An act prohibiting all commercial intercourse between the United States and France.

4th. An arrangement made between the Secretary of State of the United States, and the minister of his Britannic majesty at Washington; and

5th. The late act of the 1st May. Now of these, *all* have been presented *officially;* and, making a proper allowance for the remoteness of the United States from France, with sufficient promptitude, excepting the *last* which (from causes unknown to me) did not reach Paris until yesterday. Your excellency can at any time ascer-

* *Translation.* "His majesty could have wished, that this act and all the other acts of the government of the United States, which interest France, had always been officially made known to him. In general he has only had a knowledge of them indirectly, and after a long interval of time. There has resulted from this delay serious inconveniences, which would not have existed, if these acts had been promptly and officially communicated."

tain the correctness of this statement by referring to the archives of your own department.

I have the honour, &c. &c.

(*Signed*) JOHN ARMSTRONG.

His Excellency the Duke de Cadore.

Extracts of a Letter from General Armstrong to Mr. Smith, dated Sept. 10, 1810.

"SINCE the date of my last despatch (by Mr. Jarvis) nothing has occurred worth communicating, until yesterday, when I received the letter from the duke of Cadore, of which No. 1. (enclosed) is a copy. By this it will be seen that the decree of Rambouillet is not in operation, and that American ships entering the ports of France before the 1st of November next, will be judged under the decrees of Berlin and of Milan."

"No. 2. is the copy of a note written to M. Champagny, with a view of drawing from him something explicit, on the points of which it treats. The first of these may appear to have been useless, after the declaration of that minister, that American ships, which will hereafter arrive in the ports of France, shall not be subject to confiscation; but understanding from the council of prizes, that until some act be taken which had the effect of recalling by name the decree of the 23d of March last, they must continue to consider it both as existing and operative, and of course binding upon them, I hastened to present the subject again, and in a form which leaves no room for misunderstanding.

"12th Sept. I have the honour to enclose copies of two other letters from the duke of Cadore, one of which is an answer to my note of the 8th instant. To the question, whether we had any thing to expect in reparation for past wrongs? they reply, that their act being of reprisal, the law of reprisal must govern; in other words, that *if you confiscate French property under the law of non-intercourse, they will confiscate your property under their decree*

of Rambouillet. The words underscored is the verbal explanation which accompanied the letter."

"I set out this day for Bordeaux, (on my way to the United States,) and hope to begin my voyage from that port on the 1st of October next."

The Duke of Cadore to General Armstrong.

[TRANSLATION.]

PARIS, SEPT. 7, 1810.

SIR,

You have done me the honour to ask of me, by your letter of the 20th of August, what will be the lot of the American vessels which may arrive in France before the 1st of November.

His majesty has always wished to favour the commerce of the United States. It was not without reluctance that he used reprisal towards the Americans while he saw that Congress had ordered the confiscation of all French vessels which might arrive in the United States.

It appears that Congress might have spared to his majesty and his subjects this mortification, (ce desagrement) if in place of that harsh and decisive measure, which left to France no choice, they had used some palliative, such as that of not receiving French vessels, or of sending them away, after a delay of so many days.

As soon as his majesty was informed of this hostile act, he felt that the honour of France, involved in this point, could not be cleansed (ne pouvait étre lavé) but by a declaration of war, (which) could not take place but by tedious explanations.

The emperour contented himself with making reprisals; and in consequence, he applied to American vessels which came to France, or to the countries occupied by the French armies, word for word, the regulations of the act of Congress.

Since the last measures by which that hostile act is repealed, his majesty hastens to cause it to be made known

to you, that he anticipates that which may re-establish harmony with the United States, and that he repeals his decrees of Berlin and Milan, under the conditions pointed out in my letter to you, of the 5th of August.

During this interval, the American vessels which shall arrive in France, will not be subjected to confiscation; because the act of Congress, which had served as a motive to our reprisals, is repealed; but these vessels will be subjected to all the effects of the Berlin and Milan decrees; that is to say, they will be treated *amicably*, if they can be considered as Americans, and *hostilely*, if they have lost their national character, (s'ils se son laissé dénationalisér) by submitting to the orders in council of the British government.

I have the honour to renew to you, sir, the assurance of my high consideration.

(*Signed*) CHAMPAGNY,
Duc de Cadore.

His Excellency General ARMSTRONG, *&c. &c. &c.*

General Armstrong to the Duke of Cadore.

PARIS, SEPT. (7), 1810.

SIR,

YOUR excellency will not think me importunate if I should employ the last moments of my stay in Paris, in seeking an explicit declaration on the following points:

1. Has the decree of his majesty of the 23d of March last, enjoining acts of reprisal against the commerce of the United States on account of their late law of non-intercourse, been recalled?

2d. What will be the operation (on the vessels of the United States) of his majesty's decree of July last, forbidding the departure of neutral ships from ports of France, unless provided with *imperial licenses*? Are these licenses merely substitutes for clearances? or do they prescribe regulations to be observed by the holders of them within the jurisdiction of the United States?

Do they confine the permitted intercourse to two ports

only of the said States, and do they enjoin that all shipments be made on French account exclusively?

Is it his majesty's will, that the seizures made in the ports of Spain and other places, on the principle of reprisal, shall become a subject of present or future negotiation between the two governments? or, are the acts already taken by his majesty to be regarded as conclusive against remuneration?

I need not suggest to your excellency the interest that both governments have in the answers that may be given to these questions, and how nearly connected they are with the good understanding which ought to exist between them. After the great step lately taken by his majesty towards an accommodation of differences, we are not at liberty to suppose that any new consideration will arise, which shall either retard or prevent the adoption of measures necessary to a full restoration of the commercial intercourse and friendly relation of the two powers.

I cannot omit expressing, on this occasion, the sense I shall carry with me of the many obligations I am personally under to your excellency, and of the very high consideration with which I have the honour to be, &c.

(*Signed*) JOHN ARMSTRONG.

His Excellency the Duke of CADORE, *&c. &c. &c.*

[TRANSLATION.]

The Duke of Cadore to General Armstrong.

PARIS, SEPT. 12, 1810.

SIR,

I HAVE received your letter of the 7th September. That which I wrote to you the same day answered the first of the questions you put to me. I will add to what I have had the honour to write to you, that the decree of the 23d March, 1810, which ordered reprisals in consequence of the act of Congress of the 1st March, 1809, was repealed as soon as we were informed of the repeal of the act of *non-intercourse* passed against France.

On your second question I hasten to declare to you, that American vessels loaded with merchandise, the growth of the American provinces, will be received without difficulty in the ports of France, provided they have not suffered their flag to lose its national character, by submitting to the acts of the British council; they may in like manner depart from the ports of France. The emperour has given licenses to American vessels. It is the only flag which has obtained them. In this his majesty has intended to give a proof of the respect he loves to show to the Americans. If he is somewhat dissatisfied (peu satisfaite) that they have not as yet been able to succeed in causing their flag to be respected, at least he sees with pleasure that they are far from acknowledging the tyrannical principles of English legislation.

The American vessels which may be loaded on account of Frenchmen or on account of Americans, will be admitted into the ports of France. As to the merchandise confiscated, it having been confiscated as a measure of *reprisal*, the *principles of reprisal* must be the law in that affair.

I have the honour to renew to you, sir, the assurance of my high consideration.

(*Signed*) CHAMPAGNY,
Duc de Cadore.

His Excellency Gen. ARMSTRONG, *&c. &c. &c.*

General Armstrong to Mr. Pinkney.

BORDEAUX, SEPT. 29, 1810.

SIR,

YOUR letter of the third instant found me at this place, and on the point of embarking for the United States. I hasten, therefore, to give to it an immediate answer.

There was no errour in my representation to you, nor in your representation to lord Wellesley, of the words, or of the meaning, as I understand it, of the duke of Cadore's note to me; nor indeed do either of these appear to be readily susceptible of mistake. The former, no doubt,

retract, in the most positive terms, the Berlin and Milan decrees, and, of course, the principles on which these decrees were founded; and in doing so, assuredly gives us a fair claim on his Britannic majesty for a fulfilment of the promise made by his minister plenipotentiary to our government, on the 23d day of February, 1808. It would however appear by lord Wellesley's letter to you, of the 31st ultimo, that the British cabinet has given a new version to this promise of his majesty, and that, as a preliminary to its execution, it is now required, not merely that the *principles*, which had rendered necessary the British system, should be *retracted*, but that the repeal of the French decrees should have actually began to operate, and that *the commerce of neutral nations* (generally) *should have been restored to the condition in which it stood previously to the promulgation of these decrees.* It would also appear from different passages in your letter, that this deviation from the original promise of his majesty grew out of a supposition, that the recall of the French decrees implied a *contemporaneous cessation of the British orders in council of November*, 1807, *and a repeal before the first day of November next, of all proclamation blockades of France, &c. &c.* Than this construction nothing can, in my opinion, be more erroneous. Were the repeal of the French decrees dependent alone on what Great Britain may do, the supposition would have in it some colour of reasonableness; but as the conditions of it present an alternative, one side of which depends, not on the will of his Britannic majesty at all, but altogether on that of the United States, and which cannot be adopted by them until *after the first of November* next, it necessarily follows that the conditions are not *precedent*, as has been supposed, but *subsequent*, as I represent them. This reasoning will receive illustration from a plain and unsophisticated statement of the duke of Cadore's declaration, viz. That the Berlin and Milan decrees will cease to operate after the first day of November next, on one of two conditions; either that Great Britain shall revoke her orders in council, so far as they

violate the maritime rights of the United States, or that, refusing to do so, the United States shall revive towards her certain sections of their late non-intercourse law, conformably to an act of Congress of the first of May last. In this we find nothing of a contemporaneous cessation of the French decrees and British orders in council, nor that the blockades of France must be recalled before the first day of November next: indeed the very reverse is to be found there; for it contains an express engagement, that the decrees shall cease, if the United States do a certain act which all the world knows they cannot do till *after* that day. These remarks may derive some additional force from the contents of my letter, by Mr. Masson, which will, I hope, show, that the concessions made by France to the United States, are at least sufficiently substantial to invite from Great Britain some measures of a character equally conciliatory, and that "earnestly desiring to see the commerce of the world restored to that freedom which is necessary to its prosperity," and no more hesitating to follow the good, than she has done to follow the bad example of her neighbour and rival, she will go on to declare, that her orders in council, &c. shall cease after the first day of November next, on condition, either *that France shall have actually withdrawn her offensive decrees on that day, or, that if she refuse to do so, the United States shall proceed to enforce against her their late non-intercourse law.*

In my view of the subject, nothing short of this can be considered a sufficient pledge, on the part of the British government, which, unlike that of France, presents no alternative in the conditions on which her orders in council shall be repealed, and which, of course, in no way makes that repeal to depend on an act, which would be altogether that of the United States.

I have the honour to be, &c.

(*Signed*) JOHN ARMSTRONG.

His Excellency Wm. Pinkney, *&c. &c. &c.*

PAPERS

IN RELATION TO WEST FLORIDA, ACCOMPANYING THE PRESIDENT'S MESSAGE OF DEC. 5, 1810.

Mr. Smith to Governour Claiborne.

DEPARTMENT OF STATE, OCT. 27, 1810.

SIR,

FROM the enclosed proclamation of the President of the United States, you will perceive his determination to take possession of the territory therein specified, in the name and in behalf of the United States; the considerations which have constrained him to resort to this necessary measure, and his direction that you, as governour of the Orleans territory, shall execute the same. Of this proclamation, upon your arrival at Natchez, you will, without delay, cause to be printed as many copies in the English, French, and Spanish languages, as may be deemed necessary, and you will cause the same to be extensively circulated throughout the said territory.

You will immediately proceed by the nearest and best route to the town of Washington, in the Mississippi territory. From the secretary at war, you will receive an order to the officers commanding the several frontier posts, to afford you such assistance in passing the wilderness and in descending the western waters as you may require. And as despatch is very desirable, you are authorized, in case your horses should fail, to procure others at the publick expense. After having made at Washington the necessary arrangements with governour Holmes, and with the commanding officer of the regular troops, you will without delay proceed into the said territory, and in virtue of the President's proclamation, take possession of the same in the name and in behalf of the United States.

As the district, the possession of which your are directed to take, is to be considered as making a part of the territory of Orleans, you will, after taking possession, lose no time in proceeding to organize the militia, to prescribe the

bounds of parishes, to establish parish courts, and finally to do whatever your legal powers applicable to the case will warrant, and may be calculated to maintain order, to secure to the inhabitants the peaceable enjoyment of their liberty, property, and religion, and to place them as far as may be on the same footing with the inhabitants of the other districts under your authority. As far as your powers may be inadequate to these and other requisite objects, the legislature of Orleans, which it is understood will soon be in session, will have an opportunity of making further provisions for them, more especially for giving, by law, to the inhabitants of the said territory, a just share in the representation in the general assembly; it being desirable that the interval of this privation should not be prolonged beyond the unavoidable necessity of the case.

If, contrary to expectation, the occupation of this territory, on the part of the United States, should be opposed by force, the commanding officer of the regular troops on the Mississippi will have orders from the secretary at war to afford you, upon your application, the requisite aid, and should an additional force be deemed necessary, you will draw from the Orleans territory, as will governour Holmes from the Mississippi territory, militia in such numbers, and in such proportions from your respective territories, as you and governour Holmes may deem proper. Should, however, any particular place, however small, remain in possession of a Spanish force, you will not proceed to employ force against it; but you will make immediate report thereof to this department.

You will avail yourself of the first favourable opportunities that may occur to transmit to the several governours of the Spanish provinces in the neighbourhood, copies of the President's proclamation, with accompanying letters of a conciliatory tendency.

To defray any reasonable expenditures which may necessarily attend the execution of these instructions, the President authorizes you, having due regard to economy, to draw for a sum not exceeding, in any event, twenty thousand dollars.

From the confidence which the President justly has in your judgment and discretion, he is persuaded that in the execution of this trust, as delicate as it is important, your deportment will be temperate and conciliatory. Such a line of conduct towards the inhabitants is prescribed as well by policy as by justice.

You will, it is expected, be fully sensible of the necessity, not only of communicating every important event that may occur in the progress of this business, but of transmitting a letter, whatever may be its contents, by every mail to this city. I have the honour to be, &c.

(*Signed*) R. SMITH.

By the President of the United States of America,

A PROCLAMATION.

Whereas, the territory south of the Mississippi territory, and eastward of the river Mississippi, and extending to the river Perdido, of which possession was not delivered to the United States in pursuance of the treaty concluded at Paris on the 30th of April, 1803, has at all times, as is well known, been considered and claimed by them, as being within the colony of Louisiana conveyed by the said treaty, in the same extent that it had in the hands of Spain, and that it had when France originally possessed it.

And whereas, the acquiescence of the United States in the temporary continuance of the said territory under the Spanish authority, was not the result of any distrust of their title, as has been particularly evinced by the general tenour of their laws, and by the distinction made in the application of those laws between that territory and foreign countries; but was occasioned by their conciliatory views, and by a confidence in the justice of their cause, and in the success of candid discussion and amicable negotiation with a just and friendly power.

And whereas, a satisfactory adjustment, too long delayed, without the fault of the United States, has for some time been entirely suspended by events over which they

had no control; and whereas a crisis has at length arrived, subversive of the order of things under the Spanish authorities, whereby a failure of the United States to take the said territory into their possession, may lead to events ultimately contravening the views of both parties, whilst in the mean time the tranquillity and security of our adjoining territories are endangered, and new facilities given to violations of our revenue and commercial laws, and of those prohibiting the introduction of slaves.

Considering, moreover, that under these peculiar and imperative circumstances, a forbearance on the part of the United States to occupy the territory in question, and thereby guard against the confusions and contingencies which threaten it, might be construed into a dereliction of their title, or an insensibility to the importance of the state: considering that, in the hands of the United States, it will not cease to be a subject of fair and friendly negotiation and adjustment: considering finally, that the acts of Congress, though contemplating a present possession by a foreign authority, have contemplated also an eventual possession of the said territory by the United States, and are accordingly so framed as in that case to extend in their operation to the same.

Now be it known, That I, James Madison, President of the United States of America, in pursuance of these weighty and urgent considerations, have deemed it right and requisite, that possession should be taken of the said territory in the name and behalf of the United States. William C. C. Claiborne, governour of the Orleans territory, of which the said territory is to be taken as part, will accordingly proceed to execute the same; and to exercise over the said territory the authorities and functions legally appertaining to his office. And the good people inhabiting the same are invited and enjoined to pay due respect to him in that character, to be obedient to the laws, to maintain order, to cherish harmony, and in every manner to conduct themselves as peaceable citizens, under

full assurance, that they will be protected in the enjoyment of their liberty, property, and religion.

IN TESTIMONY WHEREOF, I have caused the seal of the United States to be hereunto affixed, and signed [L.S.] the same with my hand. Done at the city of Washington, the twenty-seventh day of October, Anno Domini, one thousand eight hundred and ten, and in the thirty-fifth year of the Independence of the United States.

(*Signed*) JAMES MADISON.

By the President.

(*Signed*) R. SMITH,
Secretary of State.

Extract of a Letter from Governour Holmes to Robert Smith, Esq. Secretary of State, dated Town of Washington, Oct. 17, 1810.

"THE enclosed letter I have been requested to transmit to you."

To the Honourable Robert Smith, Secretary of State for the United States.

SIR,

THE convention of the state of Florida have already transmitted an official copy of their act of independence, through his excellency governour Holmes, to the President of the United States, accompanied with the expression of their hope and desire, that this commonwealth may be immediately acknowledged and protected, by the government of the United States, as an integral part of the American Union. On a subject so interesting to the community represented by us, it is necessary that we should have the most direct and unequivocal assurances of the views and wishes of the American government without delay, since our weak and unprotected situation will oblige us to look to some foreign government for support, should it be refused to us by the country which we have considered as our parent state.

We therefore make this direct appeal, through you, to the President and general government of the American states, to solicit that immediate protection, to which we consider ourselves entitled; and to obtain a speedy and favourable decision, we offer the following considerations: —1st. The government of the United States, in their instructions to the envoys extraordinary at Paris, in March, 1806, authorized the purchase of East Florida, directing them at the same time to engage France to intercede with the cabinet of Spain, to relinquish any claim to the territory which now forms this commonwealth. 2d. In all diplomatick correspondence with the American ministers abroad, the government of the United States have spoken of West Florida as a part of the Louisiana cession. They have legislated for the country as a part of their own territory, and have deferred to take possession of it, in expectation that Spain might be induced to relinquish her claim by amicable negotiation. 3d. The American government has already refused to accredit any minister from the Spanish junta, which body was certainly more legally organized, as the representative of the sovereignty, than that now called the regency of Spain; therefore the United States cannot but regard any force or authority emanating from them, with an intention to subjugate us, as they would an invasion of their territory by a foreign enemy. 4th. The emperour of France has invited the Spanish Americans to declare their independence, rather than remain in subjection to the old Spanish government; therefore, an acknowledgment of our independence by the United States could not be complained of by France, or involve the American government in any contest with that power. 5th. Neither can it afford any just cause of complaint to Great Britain, although she be the ally of Spain, that the United States should acknowledge and support our independence, as this measure was necessary to save the country from falling into the hands of the French exiles from the island of Cuba, and other partisans of Bonaparte, who are the eternal enemies of Great Britain.

Should the United States be induced by these or any other considerations to acknowledge our claim to their protection, as an integral part of their territory, or otherwise, we feel it our duty to claim for our constituents an immediate admission into the union as an independent state, or as a territory of the United States, with permission to establish our own form of government, or to be united with one of the neighbouring territories, or a part of one of them, in such manner as to form a state. Should it be thought proper to annex us to one of the neighbouring territories, or a part of one of them, the inhabitants of this commonwealth would prefer being annexed to the island of Orleans; and in the mean while, until a state government should be established, that they should be governed by the ordinances already enacted by this convention, and by their further regulations hereafter.

The claim which we have to the soil, or unlocated lands, within this commonwealth, will not, it is presumed, be contested by the United States, as they have tacitly acquiesced in the claim of France or Spain for seven years, and the restrictions of the several embargo and non-intercourse laws might fairly be construed, if not as a relinquishment of their claim, yet, at least, sufficient to entitle the people of this commonwealth, (who have wrested the government and country from Spain, at the risk of their lives and fortunes) to all the unlocated lands. It will strike the American government, that the moneys arising from the sales of these lands, applied as they will be to improving the internal communications of the country, opening canals, &c. &c. will, in fact, be adding to the prosperity and strength of the federal union.

To fulfil with good faith our promises and engagements to the inhabitants of this country, it will be our duty to stipulate for an unqualified pardon, for all deserters now residing within this commonwealth, together with an exemption from further service in the army or navy of the United States.

A loan of $100,000 is solicited of the American govern-

ment, to be reimbursed at three, six, and nine years from the sales of publick lands. This loan may be made by the Secretary of the Treasury immediately, without committing the government, or making it known to foreign ministers at Washington.

In order not to embarrass the cabinet of the United States, and to receive first through their own confidential agents, their wishes and views with respect to us, it is deemed prudent to defer the departure of our envoy already named, who will be despatched immediately on receiving information that such a measure will meet the approbation of the United States.

We pray you to accept the assurances of our respect and high consideration.

By order of the convention.

(*Signed*) JOHN RHEA, *President.*

Baton Rouge, Oct. 11, 1810.

The Convention of Florida to his excellency the Governour of the Mississippi territory.

SIR,

We, the delegates of the people of this state, have the honour to enclose to you an official copy of their act of independence, requesting that it may be forthwith transmitted by you to the President of the United States, with the expression of their most confident and ardent hope, that it may accord with the policy of the government, as it does with the safety and happiness of the people of the United States, to take the present government and people of this state under their immediate and special protection, as an integral and inalienable portion of the United States.

The convention and their constituents of the State of Florida rest in the firm persuasion, that the blood which flows in their veins will remind the government and people of the United States, that they are their children, that they have been acknowledged as such by the most solemn acts of the Congress of the United States, and that so long

as independence and the rights of man shall be maintained and cherished by the American union, the good people of this State cannot, nor will not, be abandoned or exposed to the invasion, violence or force of any foreign or domestick foe.

The convention beg you to receive for yourself, sir, and to assure the President of their high respect and consideration.

By order of the convention.

(*Signed*) JOHN RHEA, *President.*

Baton Rouge, Sept. 26, 1810.

[COPY.]

By the Representatives of the People of West Florida in Convention, assembled,

A DECLARATION.

It is known to the world, with how much fidelity the good people of this territory have professed and maintained allegiance to their legitimate sovereign, while any hope remained of receiving from him protection for their property and lives. Without making any unnecessary innovation in the established principles of the government, we had voluntarily adopted certain regulations in concert with our first magistrate, for the express purpose of preserving this territory, and showing our attachment to the government which had heretofore protected us. This compact, which was entered into with good faith on our part, will for ever remain an honourable testimony of our upright intentions and inviolable fidelity to our king and parent country, while so much as a shadow of legitimate authority remained to be exercised over us. We sought only a speedy remedy for such evils as seemed to endanger our existence and prosperity, and were encouraged by our governour with solemn promises of assistance and co-operation. But those measures which were intended for our preservation, he has endeavoured to pervert into an engine of destruction, by encouraging in the most perfidious manner the

violation of ordinances sanctioned and established by himself as the law of the land.

Being thus left without any hope of protection from the mother country, betrayed by a magistrate whose duty it was to have provided for the safety and tranquillity of the people and government committed to his charge, and exposed to all the evils of a state of anarchy, which we have so long endeavoured to avert; it becomes our duty to provide for our own security, as a free and independent state, absolved from all allegiance to a government which no longer protects us.

We, therefore, the representatives aforesaid, appealing to the supreme ruler of the world for the rectitude of our intentions, do solemnly publish and declare the several districts composing this territory of West Florida, to be a *free and independent state*, and that they have a right to institute for themselves such form of government as they may think conducive to their safety and happiness, to form treaties, to establish commerce, to provide for their common defence, and do all acts which may of right be done by a sovereign and independent nation; at the same time declaring all acts within the said territory of West Florida, after this date, by any tribunal or authorities, not deriving their powers from the people agreeable to the provisions of this convention, to be null and void; and calling upon all foreign nations to respect this our declaration, acknowledging our independence, and giving us such aid as may be consistent with the laws and usages of nations.

This declaration made in convention at the town of Baton Rouge, on the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and ten, we, the representatives in the name and on behalf of our constituents, do hereby solemnly pledge ourselves to support with our lives and fortunes.

By order of the convention.

JOHN RHEA, *President.*
ANDREW STEELE, *Secretary.*

Mr. Smith to Governour Holmes, dated Department of State, Nov. 15, 1810.

SIR,

I HAVE received your letter of the 17th of October, enclosing the memorial of the convention of West Florida. To repress the unreasonable expectations therein indicated, in relation to the vacant land in that territory, it is deemed proper to lose no time in communicating to you and to governour Claiborne the sentiments of the President on the subject.

The right of the United States to the territory of West Florida, as far as the river Perdido, was fairly acquired by purchase, and has been formally ratified by treaty. The delivery of possession has, indeed, been deferred, and the procrastination has been heretofore acquiesced in by this government from a hope, patiently indulged, that amicable negotiation would accomplish the equitable purpose of the United States. But this delay, which proceeded only from the forbearance of the United States to enforce a legitimate and well known claim, could not impair the legality of their title, nor could any change in the internal state of things without their sanction, howsoever brought about, vary their right. It remains, of course, as perfect as it was before the interposition of the convention. And the people of West Florida must not for a moment be misled by the expectation that the United States will surrender, for their exclusive benefit, what had been purchased with the treasure and for the benefit of the whole. The vacant land of this territory, thrown into common stock with all the other vacant land of the union, will be a property in common for the national uses of all the people of the United States. The community of interests, upon which this government invariably acts, the liberal policy which it has uniformly displayed towards the people of the territories, (a part of which policy has ever been a just regard to honest settlers) will, nevertheless, be a sufficient pledge to the inhabitants of West Florida, for the early and continu-

ed attention of the federal legislature to their situation and their wants.

These observations will apprize you, sir, of the sentiments of the President, as to the propositions in the memorial in relation to the vacant land in West Florida, and will enable you to make, when necessary and proper, suitable explanations to the people of that territory. You will, however, keep in mind that the President cannot recognise in the convention of West Florida, any independent authority whatever to propose or to form a compact with the United States.

I have the honour to be &c.

(*Signed*) R. SMITH.

To Governour HOLMES.

Extract of a Letter from John Gavino, Esq. consul of the United States at Gibraltar, to the Secretary of State, dated Sept. 18, 1810.

"I BEG leave to hand you a copy of a letter from consul Coxe, dated Malta, 26th ult. when he was on his return to Tunis. It has given me great pleasure to find his having succeeded in terminating amicably the differences which had taken place with that Bey."

From Mr. Coxe to Mr. Gavino, dated Malta, Aug. 26, 1810.

SIR,

I ARRIVED at this place on the 22d instant, in the schooner Hamilton, captain Whitlock, as a flag of truce, in consequence of an unfavourable change in the situation of our affairs at Tunis, with the expectation of making some arrangement whereby the difficulty which has taken place may be amicably adjusted.

On the 14th instant his excellency the Bey sent a messenger to request my presence at the palace. I accordingly presented myself, and he informed me that in consequence of the seizure of a vessel belonging to him, and

bearing his flag, through the interference of Mr. Pulis, the American consul at Malta, he had given orders to arrest all the Americans and sequester all their property in the kingdom of Tunis, which he would hold until he received full satisfaction from the United States, considering them responsible for the acts of their publick agents.

The vessel alluded to was the ship Liberty, of Philadelphia, belonging to William Haslett, of that place, which had been taken by a French privateer, brought to Tunis, and sold by order of the French consul at publick auction. The first minister of the Bey was the purchaser, and she afterwards proceeded to Malta, under Tunisian colours, where she arrived without interruption in the month of May last. Mr. Pulis, the American consul, applied to the Maltese court, or *Consolato del Mare*, (as the British vice admiralty court would not interfere) and claimed the ship for the original American owners. His excellency the Bey, on being informed of this, took the measures before related.

He not only regards this as a loss of property, but as an insult offered to his flag, and will view it as a declaration of war, if the ship should not be restored to him, with damages for detention. He insists on the right of purchasing prize vessels at auction, or any others offered for sale in his kingdom, and that his flag shall protect them. His excellency declared, that he had given me the strongest proofs of his justice and friendly disposition to my government, in causing all the American vessels and their cargoes to be released, which had been taken within the limits of his jurisdiction; but that those taken on the high seas was an affair between the American and French governments, and did not concern him. He has warned me, that if the ship Rolla (an American vessel taken by a French privateer *without* his jurisdictional limits) and purchased by his agents at publick auction, at the French consulate, should be hereafter claimed by an American citizen, and given up to him, the Americans with their property at Tunis shall be answerable for the event.

The amount of American property at Tunis may be computed at about $250,000.

All my endeavours to deter his excellency from these harsh measures were of no avail. He assured me in the most solemn manner, that he would not only firmly adhere to the steps he had already taken, but would pursue such others as he might deem necessary. I have now, however, to inform you, that on my arrival here, and in consequence of my having officially informed Mr. Pulis of what had taken place at Tunis, he has, as the only alternative to prevent a war, withdrawn his claim, and the ship has been restored to the Bey's ambassadour at this place, whereby our relations with that regency are again placed on the same friendly footing on which they were before this unfortunate occurrence took place.

I shall sail on my return to Tunis immediately, in the vessel which brought me here; having thus brought the difficulty which had arisen to an amicable conclusion, on terms which I trust will be satisfactory to my government.

Very respectfully, I have the honour to be, &c.

(*Signed*) C. D. COXE.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE HOUSE OF REPRESENTATIVES. DEC. 28, 1810.

I LAY before the House a report from the Secretary of State, complying with their resolution of the 21st inst.

JAMES MADISON.

DEPARTMENT OF STATE, DEC. 28, 1810.

SIR,

IN pursuance of the resolution of the House of Representatives of the 21st of this month, I have the honour of laying before you:

1st. A copy (marked A.) of a decree of the emperour of France, transmitted to this department by general Armstrong.

2d. A copy (marked B) of a correspondence with general Turreau.

3d. A copy (marked C) of a communication, just received from general Armstrong, in relation to the duties lately imposed by the emperour of France.

With the highest respect and consideration, I have the honour to remain, &c. R. SMITH.

The President of the United States.

(A.)

Translation of a decree of the 15th (9) July, 1810.

THIRTY or forty American vessels may import into France, (under license) cotton, fish oil, dyewood, salt fish, cod fish, hides and peltry. They may export wine, brandy, silks, linens, cloths, jewelry, household furniture, and other manufactured articles. They can only depart from Charleston and New York, under the obligation of bringing with them a gazette of the day of their departure, (American gazette) moreover a certificate of the origin of the merchandise, given by the French consul, containing a sentence in cypher: the French merchants who shall cause these vessels to come must prove that they are concerned in the fabricks at Paris, Rouen, and other towns.

(B.)

General Turreau to Mr. Smith.

[TRANSLATION.]

WASHINGTON, NOV. 27, 1810.

SIR,

SINCE our last conversation relative to the certificates of origin given by the consuls of his majesty in the United States, I have collected and read over the different orders of my court on that subject, and asked of the consul general of France those which he might have received directly

on this part of the service, so essential for the security of your exportations.

It results from the instructions which I have received directly, and from those that have been sent to the consul general, that the consuls of his majesty in the United States do not deliver, or must not hereafter deliver, under any pretext, any certificate of origin to American vessels destined for any port other than those of France: that they deliver them and will deliver them hereafter to all American vessels destined for the ports of France, loaded only with the produce of the United States: that all the certificates anteriour to the last instructions attributed to the consuls of his majesty, and which it is pretended were given for colonial produce, that evidently came from England, have been challenged as false (argues de faux) in as much as the English publickly fabricate papers of this sort at London.

This, sir, is all that it is possible for me to say to you at present respecting certificates of origin.

I cannot doubt but that the government of the United States will see in these regulations of my court an intention, distinctly pronounced, of favouring the commercial relations between France and the United States in all the objects of traffick which shall evidently proceed from their agriculture or manufactures.

You will readily perceive, sir, that in giving this latitude to the mutually advantageous relations of the two friendly people, the emperour cannot depart from the system of exclusion against English commerce without losing the advantages which his majesty and the allied powers must necessarily expect from it.

I have the honour to be, with high consideration, &c.

(*Signed*) TURREAU.

Hon. Robert Smith, Secr'y of State.

The Secretary of State to General Turreau.

DEPARTMENT OF STATE, NOV. 28, 1810.

SIR,

I HAVE had the honour of receiving your letter of yesterday, stating that the French consuls in the United States are at this time authorized to deliver certificates of origin only to such American vessels as are bound to some port of France, and as are laden with the produce of the United States.

It will afford satisfaction to our merchants to know, and therefore I have to request you to inform me, whether in American vessels having such certificates of origin, they can export to France every kind of produce of the United States, and especially cotton and tobacco.

In addition to the intelligence communicated in your letter in relation to the certificates of origin, I have the honour of asking from you information upon the following questions:

1st. Have not the French consuls been in the practice, under the authority of the French government, of delivering in the ports of the United States certificates of origin for American vessels, bound to the ports of France, and of her allies, and laden with either colonial produce, or the produce of the United States?

2d. Have the French consuls in the United States lately received from the French government instructions not to deliver such certificates of origin for American vessels, and at what time did they receive such instructions?

3d. At what time did the French consuls cease to issue certificates of origin to American vessels, in pursuance of instructions from their government, in cases of destination to ports of the allies of France?

These facts being connected with questions interesting to our merchants in foreign tribunals, your goodness will pardon the resort to your aid in ascertaining them.

I have the honour to be, &c.

(*Signed*) R. SMITH.

Gen. TURREAU, &c. &c. &c.

General Turreau to Mr. Smith.

[TRANSLATION.]

WASHINGTON, DEC. 12, 1810.

SIR,

If I have not replied sooner to the letter which you did me the honour to write to me on the 28th of last month, it is because I have sought information from the consul general of his majesty, whether he had not received directly instructions more recent than those which I had transmitted to him, and also to enable me to give a positive answer to the questions contained in the letter referred to above.

I reply, sir, to the first of your questions—that M. M. the consuls of his majesty to the United States have always delivered certificates of origin to American vessels for the ports of France: they did it in execution of a decree of his majesty of the 1st of Messidor, of the year eleven.

M. M. the French consuls have also delivered them to vessels destined for neutral or allied ports, whenever they have been required of them. This measure was sanctioned and authorized by a circular despatch of his excellency the minister of foreign relations, under date of the 20th of April, 1808. This despatch prescribes the formalities to be gone through for the certificates delivered in such cases.

I proceed now, sir, to reply to the second of your questions.

By a despatch of his excellency the duke of Cadore, of the 30th of August last, received by the "Hornet" the 13th of last month, and of which information was given the same day to the consuls and vice consuls of his majesty, they are expressly prohibited from delivering certificates of origin for merchandise of any kind or under any pretext whatever, if the vessels are not destined for France.

This reply to your second question, sir, furnishes you with a solution of the third. The consuls and vice consuls of his majesty will have ceased to deliver certificates of origin to vessels for any other place than France, immediately on the receipt of this circular, which will reach them

a few days sooner or later, according to the greater or less distance of the places of their residence.

Concerning cotton and tobacco, their importation into France is, at this moment, specially prohibited; but I have reasons to believe (and I pray you, meanwhile, to observe, sir, that they do not rest upon any facts) that some modifications will be given to this absolute exclusion. These modifications will not depend upon the chance of events; but will be the result of other measures, firm and pursued with perseverance, which the two governments will continue to adopt to withdraw from the monopoly and from the vexations of the common enemy a commerce, loyal (*loyal*) and necessary to France as well as to the United States.

Accept, sir, the renewed assurance of my high consideration.

(*Signed*) TURREAU.

The Secretary of State to General Turreau.

DEPARTMENT OF STATE, DEC. 18, 1810.

SIR,

I HAVE had the honour of receiving your letter of the 12th instant, in reply to my inquiries in relation to certificates of origin, as well as to the admission into France of the products of the agriculture of the United States.

From your letter it appears, that the importation into France of cotton and tobacco, the produce of the United States, is, at this time, specially and absolutely prohibited.

From the decree of the 15th July, it moreover appears, that there can be no importation into France, but upon terms and conditions utterly inadmissible, and that, therefore, there can be no importation at all of the following articles, the produce of the United States, namely: fish oil, dye wood, salt fish, cod fish, hides and peltry.

As these enumerated articles constitute the great mass of the exports from the United States to France, the mind is naturally awakened to a survey of the actual condition of the commercial relations between the two countries,

and to the consideration that no practical good, worthy of notice, has resulted to the United States from the revocation of the Berlin and Milan decrees, combined, as it unexpectedly has been, with a change in the commercial system of France, so momentous to the United States.

The act of Congress of May last had for its object, not merely the recognition of a speculative legitimate principle, but the enjoyment of a substantial benefit. The overture, therein presented, obviously embraced the idea of commercial advantage. It included the reasonable belief, that an abrogation of the Berlin and Milan decrees would leave the ports of France as free for the introduction of the *produce of the United States*, as they were previously to the promulgation of those decrees.

The restrictions of the Berlin and Milan decrees had the effect of restraining the American merchants from sending their vessels to France. The interdictions in the system that has been substituted, against the admission of American products, will have the effect of imposing upon them an equal restraint. If, then, for the revoked decrees, municipal laws, producing the same commercial effect, have been substituted, the mode only, and not the measure, has undergone an alteration. And however true it may be, that the change is lawful in form, it is, nevertheless, as true, that it is essentially unfriendly, and that it does not at all comport with the ideas inspired by your letter of the 27th ult. in which you were pleased to declare the "distinctly pronounced intention of his imperial majesty of favouring the commercial relations between France and the United States in all the objects of traffick, which shall evidently proceed from their agriculture or manufactures."

If France, by her own acts, has blocked up her ports against the introduction of the products of the United States, what motive has this government, in a discussion with a third power, to insist on the privilege of going to France? Whence the inducement to urge the annulment of a blockade of France, when, if annulled, no American cargoes could obtain a market in any of her ports? In

such a state of things, a blockade of the coast of France would be to the United States as unimportant, as would be a blockade of the coast of the Caspian sea.

The British edicts may be viewed as having a double relation; first, to the wrong done to the United States; second, to the wrong done to France. And it is in the latter relation only, that France has a right to speak. But what wrong, it may be asked, can France suffer from British orders which co-operate with her own regulations?

However sensible the United States may be to the violation of their neutral rights under those edicts, yet, if France herself has by her own acts rendered it a theoretical instead of a practical violation, it is for this government to decide on the degree in which sacrifices of any sort may be required by considerations which peculiarly and exclusively relate to the United States. Certain it is, that the inducements to such sacrifices are weakened, as far as France can weaken them, by having converted the right to be maintained, into a naked one, whilst the sacrifices to be made would be substantial and extensive.

A hope, however, is indulged, that your *instructions* from your government will soon enable you to give some satisfactory explanations of the measures to which reference has been made, and that their operation in virtue of modifications, which have not yet transpired, will not be as has been herein represented.

The President has received with great satisfaction the information, that the consuls of France have been heretofore in the official and authorized practice of furnishing certificates of origin to American vessels, as well to those destined to neutral ports, as to those whose sovereigns are in alliance with France; and that this practice, sanctioned by the French government, did not cease in any part of the United States before the 13th of last month, and then only in consequence of a despatch from the duke of Cadore, bearing date the 30th of August preceding. This satisfaction arises from the hope, that similar information may have been given to the Danish government, and from a

sense of the happy influence which such a communication will have had on the American property, that had been seized and detained by the privateers of Denmark, upon the supposition that these certificates of origin were spurious and not authorized by the French government. It is, nevertheless, to be regretted, that the functionaries of France in Denmark had not made known to the Danish authorities, during the occurrence of such outrages on the American trade, the errour of denouncing, as illegitimate, authentick documents, which had been lawfully issued by the accredited agents of his imperial majesty.

I have the honour to be, &c.

(*Signed*) R. SMITH.

General TURREAU, *&c. &c. &c.*

Translation of a Letter from General Turreau, Minister Plenipotentiary of his Imeprial and Royal Majesty the Emperour of the French, &c. &c. to Mr. Smith, Secretary of State.

WASHINGTON, DEC. 25, 1810.

SIR,

I HAVE received the letter you have done me the honour to write to me on the 18th of this month, and I hasten to transmit a copy of it to his excelleney the duke de Cadore.

This despatch, sir, being an answer to the letters which I had the honour to write to you on the 27th of November and 12th of this month, naturally takes me back to their object, to which I believe it is my duty again to call your attention.

I pray you to observe that the last instructions I have received from my court relative to the new directions the commerce of France with the United States must follow, are of a very old date: the official despatches from which I have taken them are of the 12th and 28th of April last.

It is the more probable that the regulations of my government in regard to this commerce have undergone some modifications, as the consul general received by the "Hornet," despatches of the 10th July, 22d and 30th August

last, in which it is specially stated, that cottons may be imported into France in American vessels, and under certain regulations; whereas, according to the instructions which were addressed to me on the 12th and 28th of April preceding, cotton and tobacco are specially prohibited.

I will add to these data, (ces donnes) that, according to the orders transmitted to the consuls of his majesty respecting certificates of origin, and under the date before cited (30th August last) they may deliver them to all American vessels destined for France; observing, that these certificates are not applicable *but to the products of the United States.* If these certificates of origin cannot be applied but to the productions of the United Sates, and cannot be given to any vessels but those destined for France, the introduction of these productions is not then prohibited there.

You will be pleased especially to observe, sir, that the dispositions which were announced to me by the despatches of the 12th and 28th of April, are of course anteriour to the repeal of the decrees of Berlin and Milan, and are necessarily without an object the moment the said decrees are no longer in force. I do not know of any subsequent acts which modify this repeal, for the instructions already cited, sent to the consul general the 30th August last, relative to the certificates of origin, are only a consequence of it, and formally exclude only colonial productions.

Furthermore, sir, I have before me the letters of the duke of Cadore to general Armstrong, under date of the 5th of August, and 12th September, of which copies have been sent to me by order of my court. These are the only documents on which it seems to me reasonable to fix the attention (s'arreter) and I see in them nothing which can cause it to be supposed that the French government may have had an intention to modify or to restrict the repeal of the before cited decrees. This act contains no reserve: it does not exact any guaranty. The declaration of the duke of Cadore is formal; and it is the provisions themselves of the act of the honourable Congress of the 1st of May last, which have dictated to him the consequence.

I seize this occasion with eagerness, sir, to renew to you the assurance of my high consideration.

(*Signed*) TURREAU.

(C.)

General Armstrong to Mr. Smith.

WASHINGTON, DEC. 27, 1810.

SIR,

THE enclosed documents, marked 1 and 2, were intended to have made part of my last communication. The paper entitled *Avis au commerce*, &c. (notice to merchants,) contains a tariff of the new duties payable in France, and shows, besides, what are the articles of commerce admissible there. If this paper has no other value, it will be found important from the illustration it gives to that passage of the duke of Cadore's letter to me of the 12th of September last, in which he says that *American vessels loaded with merchandise, the growth of the American States, will be received without difficulty into the ports of France.* It is also in perfect concert with the practice of the French custom house, in the case of the ship Ida, coming from Boston with a cargo of cotton. I am, sir, &c.

(*Signed*) JOHN ARMSTRONG.

Hon. ROBERT SMITH, Secretary of State.

Notice to Merchants, on the sale of the 1st of August, 1810.

DESIGNATION.	TARES.	CUSTOM HOUSE DUTIES.
Oars,	- - -	2 francs the hundred.
Cotton of Brazil, Surinam, Cayenne, Demerara, and Georgia, long staple,	6 per cent.	800 francs the 100 killogrammes.
Cotton of every other country except Naples,	6 per cent.	600 francs the 100 kill.
Logwood,	- - -	80 francs the 100 kill.
Cocoa,	3 per cent.	1000 francs the 100 kill.
Coffee in bags,	3 per cent.	400 francs the 100 kill.
casks,	12 per cent.	
Cigars in boxes,	12 per cent.	400 f. the 100 kill and 80 on the manf.
Cloves in bags,	2 per cent.	600 francs the 100 kill.
Gum Arabic in bags,	2 per cent.	4 francs 8 centimes the 100 kill.
Fish oil in casks,	15 per cent.	25 francs the 100 kill.
Beans in hhds.	12 per cent.	100 centimes the 100 kill.
Indigo in seroons,	6 per cent	900 francs the 100 kill.
cases and casks,	12 per cent.	
Potash in casks,	12 per cent.	15 centimes per 100 francs.
Black pepper in bags,	3 per cent.	400 francs the 100 kill.
Oak plank,	- - -	15 centimes per cent. *ad valorem*.
Peruvian bark in boxes,	12 per cent.	200 francs the 100 kill.
in seroons,	2 per cent.	
Rice in barrels,	12 per cent.	10 francs the 100 kill.
Rum (*au litre*)	- - -	80 centimes *le litre*.
Rocou in casks,	12 per cent.	12 francs the 100 kill.
Clayed sugar in boxes and casks,	12 per cent.	400 francs the 100 kill.
Raw sugur in boxes and barrels,	15 per cent.	300 francs the 100 kill.
Tobacco, in leaf, box or hhd.	12 per cent	400 f. the 100 k. & 80 fs. on manf.
in *sacs ou paniers*,	2 per cent.	

NOTE. The additional *tenth* is not comprised in the above duties.

☞ The document, of which the above is a translation, is in print, and under the words "Custom house duties," ("*Droits de Duane*") are in manuscript the following words, viz. "by decree of the 5th August, 1810.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE HOUSE OF REPRESENTATIVES. DEC. 31, 1810.

I LAY before the House of Representatives a supplemental report of the Secretary of State, containing information, received since the date of my last message, on the subject of their resolution of the 21st inst.

JAMES MADISON.

DEPARTMENT OF STATE, DEC. 31, 1810.

SIR,

HAVING just received from general Armstrong the enclosed communication, (marked D) I hasten to transmit it to you, as a supplement to the report which I had the honour of laying before you on the 28th of this month.

With the highest respect and consideration, I have the honour to be, &c. R. SMITH.

The President of the United States.

(D.)

[COPY.] WASHINGTON, DEC. 29, 1810.

SIR,

IN giving the few papers I brought with me another examination, I have found the enclosed extract from the minutes of the French council of commerce of the 12th of September last. Having a connection with the subject of my letter of yesterday, I have the honour of transmitting it to you, and at the same time of renewing the assurances of my very high consideration.

(*Signed*) JOHN ARMSTRONG.

Hon. ROBERT SMITH, Secretary of State.

[TRANSLATION.]

Extract from the minutes of the office of the Secretary of State.

AT THE PALACE OF ST. CLOUD, SEPT. 12, 1810.

NAPOLEON, emperour of the French, king of Italy, protector of the confederation of the Rhine, and mediator of the Swiss confederation:

Upon the report of our minister of the interiour:

After having heard our council of the administration of the finances, and in conformity with our decree of the 5th of August, 1810.

We have decreed and do decree as follows:

ART. 1. The duties of entry upon the articles of merchandise hereafter mentioned, are regulated in the following manner:

	francs.	cents.
American pot ash, per quintal -	30	00
Hides in the hair, American, the piece,	2	50
Fish-oil, per quintal, decimal -	25	00
Cod fish, idem, -	10	00
Dried fish, idem, -	8	00
Elephants' teeth, idem, -	400	00
Tortoise shell, idem, -	1,500	00
Mother of pearl, idem, -	200	00
American rice, idem, -	20	00
Cachew, idem, -	600	00
Vanilla, per killogramme, -	60	00
Bark, red, idem, - -	10	00
yellow, idem, - -	4	00
grey rolled, idem, - -	7	00
Rheubarb, idem, - -	6	00
Ipecacuanha, idem, - -	12	00
Shumach, per quintal decimal, -	30	00
Ginger, idem, - -	30	00
Pimento, (see the decree of August 5)		
Black pepper, Cassia Lignea, idem,		
Cinnamon Ord.		

		francs.	cents.
"*Casse ou Canefice*,"	per quintal,	150	00
Rocou, Ordrilla,	idem,	200	00
"Curcuma,"	idem,	125	00
Gum of Senegal, Arabic, Iaric, Gayac,	idem,	75	00
Gum Copal, Shellac, Indian Rubber, Gum Ammoniac, Segapanum,	per quintal decimal,	200	00
Gum elemi,	idem,	500	00
gute,	idem,	600	00
opoponax,	idem,	400	00
Gayac wood, Cayenne do. Quercitron bark, Pallisandre wood,	idem,	30	00
Red wood,	per quintal decimal,	150	00
Red Sandal wood,		20	00
Aloe wood,		800	00
Nephretic wood,		500	00
"*Rhodes*" wood,		200	00
Sandal Citron wood.		250	30
Tanaris wood,		150	00
Brazil wood, Caliatour wood,		15	00

ART. II. Our ministers of the interiour, of justice, and of the finances, are charged with the execution of the present decree.

(*Signed*) NAPOLEON.

By the emperour.

The Minister Secretary of State,

(*Signed*) H. B. DUKE OF BASSANO.

The Counsellor Director General of the customs,

THE COUNT DE SUSSY.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO CONGRESS. JAN. 12, 1811.

I TRANSMIT to Congress, copies of a letter from the minister plenipotentiary of the United States, at London, to the Secretary of State, and of another, from the same, to the British Secretary for Foreign Affairs.

JAMES MADISON.

Mr. Pinkney to Mr. Smith.

LONDON, NOV. 5, 1810.

SIR,

I HAVE presented a second note, of which a copy is enclosed, to lord Wellesley, on the subject of the orders in council, under an impression that the state of the king's health (for which I beg to refer you to the paper herewith transmitted) did not render it improper, and that if it was not improper on that account, it was indispensable on every other.

The day had gone by when the Berlin and Milan decrees were to cease to operate, according to the communication made by the government of France to the American minister at Paris, and published in the official journal of that government; and yet no step whatever had been taken, or apparently thought of, towards the revocation of the British orders. I had received no explanation of the reasons of this backwardness, and no such assurance, looking to the future, as could justify an opinion, that it would not continue. Lord Wellesley's letter of the 31st of August, which I had left unanswered till after the 1st of November, that I might stand on the strongest possible ground when I did answer it, made no profession of being a present measure, and (though from obvious motives, I have not so represented it in my note to him of the 3d inst.) was

vague and equivocal as a prospective pledge. It defined nothing, and was so far from warranting any specifick expectation, that it seemed rather to take away the very little of precision which belonged to former declarations on the same point. It was highly important to the commerce of the United States, that this ambiguity should be cleared away, with all practicable expedition, and if it could not be removed, that no presumption should be afforded of a disposition on the part of the United States to acquiesce in it. My note to lord Wellesley was written and delivered upon these inducements.

In the king's actual situation, the orders in council can scarcely be formally recalled, even if the cabinet are so inclined; but it does not follow that something may not be done (though I have no reason to think that any thing will be done) which may be productive of immediate advantage, and at any rate prepare the way for the desired repeal.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Hon. R. Smith, Secretary of State.

P. S. This letter is written in great haste, that I may send it to Liverpool by this evening's mail. W. P.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, NOV. 3, 1810.

MY LORD,

In my note of the 25th of August, I had the honour to stateto your lordship, that I had received from the minister plenipotentiary of the United States, at Paris, a letter, dated the 6th of that month, in which he informed me, that he had received from the French government a written and official notice, that it had revoked the decrees of Berlin and Milan, and that after the first of November, those decrees would cease to have any effect; and I expressed my confidence, that the revocation of the British orders in council, of January and November, 1807, and April, 1809, and of all other orders dependent upon, analogous to, or in execution of them, would follow of course.

Your lordship's reply, of the 31st of August, to that note, repeated a declaration of the British minister in America, made, as it appears, to the government of the United States in February, 1808, of "his majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary," and added an official assurance, that, "whenever the repeal of the French decrees should have actually taken effect, and the commerce of neutral nations should have been restored to the condition in which it stood previously to the promulgation of those decrees, his majesty would feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt."

Without departing, in any degree, from my first opinion, that the United States had a right to expect, upon every principle of justice, that the prospective revocation of the French decrees would be immediately followed by at least a like revocation of the orders of England, I must remind your lordship, that the day has now passed when the repeal of the Berlin and Milan edicts, as communicated to your lordship, in the note above mentioned, and published to the whole world by the government of France, in the Moniteur of the 9th of September, was, by the terms of it, to take effect. That it has taken effect, cannot be doubted; and it can as little be questioned, that, according to the repeated pledges, given by the British government, on this point, (to say nothing of various other powerful considerations,) the prompt relinquishment of the system, to which your lordship's reply to my note of the 25th of August, alludes, is indispensable.

I need scarcely mention how important it is to the trade of the United States, that the government of Great Britain should lose no time in disclosing with frankness and precision its intentions on this head. Intelligence of the French repeal has reached America, and commercial

expeditions have doubtless been founded upon it. It will have been taken for granted that the British obstructions to those expeditions, having thus lost the support which, however insufficient in itself, was the only one that could ever be claimed for them, have been withdrawn; and that the seas are once more restored to the dominion of law and justice.

I persuade myself that this confidence will be substantially justified by the event, and that to the speedy recall of such orders in council as were subsequent in date to the decrees of France, will be added the annulment of the antecedent order to which my late letter respecting blockades particularly relates. But if, notwithstanding the circumstances which invite to such a course, the British government shall have determined not to remove those obstructions with all practicable promptitude, I trust that my government will be apprized, with as little delay as possible, of a determination so unexpected, and of such vital concern to its rights and interests; and that the reasons upon which that determination may have been formed, will not be withheld from it.

I have the honour, &c. &c.

(*Signed*) WM. PINKNEY.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE HOUSE OF REPRESENTATIVES. JAN. 14, 1811.

I TRANSMIT to the House of Representatives, copies of the documents referred to in their resolution of the fourth instant.

JAMES MADISON.

[CIRCULAR.]

TREASURY DEPARTMENT, NOV. 2, 1810.

SIR,

You will herewith receive a copy of the proclamation of the President of the United States, announcing the revocation of the edicts of France which violated the neutral commerce of the United States, and that the restrictions, imposed by the act of May 1st last, accordingly cease from this day in relation to France. French armed vessels may therefore be admitted into the harbours and waters of the United States, any thing in that law to the contrary notwithstanding.

It also follows, that if Great Britain shall not, on the 2d of February next, have revoked or modified in like manner her edicts violating the neutral commerce of the United States, the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, and 18th sections of the "act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," shall, in conformity with the act first above mentioned, be revived and have full force and effect, so far as relates to Great Britain and her dependencies, from and after the said 2d day of February next. Unless, therefore, you shall before that day be officially notified by this department of such revocation or modification, you will, from and after the said day, carry into effect the above mentioned sections, which prohibit both the entrance of British vessels of every description into the harbours and waters of the United States, and the importation into the United States of any articles the growth, produce or manufacture of the dominions, colonies and dependencies of Great Britain, and of any articles whatever brought from the said dominions, colonies and dependencies.

I am respectfully, sir, your obedient servant,

The Collector of the Customs
for the district of

By the President of the United States,

A PROCLAMATION.

WHEREAS by the fourth section of the act of Congress, passed on the first day of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," it is provided "that in case either Great Britain or France shall, before the third day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation, and if the other nation shall not within three months thereafter so revoke or modify her edicts in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eighteenth sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," shall, from and after the expiration of three months from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies and dependencies, and to the articles the growth, produce or manufacture of the dominions, colonies and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in the manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid:"

And whereas it has been officially made known to this government, that the edicts of France violating the neutral commerce of the United States have been so revoked as to cease to have effect, on the first of the present month: Now, therefore, I, JAMES MADISON, President of the United States, do hereby proclaim that the said edicts of France have been so revoked as that they ceased on the

said first day of the present month to violate the neutral commerce of the United States; and that, from the date of these presents, all the restrictions imposed by the aforesaid act shall cease and be discontinued in relation to France and her dependencies.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, and signed the same with my hand at the city of Washington, [L. S.] this second day of November, in the year of our Lord one thousand eight hundred and ten, and of the independence of the United States the thirty-fifth. JAMES MADISON.

By the President.

R. SMITH,
Secretary of State.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO CONGRESS. JAN. 31, 1811.

I LAY before Congress a letter from the charge d'affairs of the United States at Paris, to the Secretary of State: and another from the same to the French minister of foreign relations: also two letters from the agent of the American consul at Bordeaux, to the Secretary of State.

JAMES MADISON.

Copy of a Letter from Jonathan Russell, Esq. charge d'affairs of the United States at Paris, to Mr. Smith, Secretary of State, dated Paris, Dec. 11, 1810.

SIR,

ON the evening of the 9th instant, I learnt that the Essex frigate had arrived at L'Orient on the 4th, and had been put under quarantine for five days, for the want of a bill of health, during which time the messenger is not

allowed to come on shore. At the same time that I received this intelligence, I was also informed that the brig New Orleans Packet was seized at Bordeaux, under the Berlin and Milan decrees, by the director of the customs at that place. The simultaneous occurrence of these two events, formed in my opinion a crisis which required a prompt decision of this government. Under this impression I immediately addressed to the duke of Cadore the note, of which the enclosed is a copy, and in which I thought it politick to remonstrate with firmness, against the proceedings of the director of the customs at Bordeaux, and to leave the government here at liberty to disavow them. This disavowal, however, I am persuaded, depends entirely on the nature of the despatches brought by the Essex. I feel, therefore, the most lively anxiety to receive them. In the mean time I give this letter a chance of reaching you, by a vessel about leaving Bordeaux for New York.

Since my last, the Hanseatic towns have been annexed to this empire.

I have informed Mr. Pinkney of the arrival of the Essex, and suggested to him the possibility that the proclamation of the President had come out by her, in order that he might, if he thought proper, make a final attempt to obtain a repeal of the orders in council, while it was yet in the power of the British ministry to do it with a good grace. I have the honour to be, &c.

(*Signed*) JONA. RUSSELL.

Hon. R. Smith, Sec'y of State, U. States.

Mr. Russell to the Duke de Cadore.

PARIS, DEC. 10, 1810.

SIR,

I HAVE this moment learnt that the American brig New Orleans Packet, lately arrived at Bordeaux, has, with her cargo, the bona fide property of citizens of the United States, and laden at the port of New York, been seized by the director of the customs under the Berlin or Milan decrees. I have also been informed, that this director of the

customs, not satisfied with this hardy violation of the solemn assurances given by your excellency to general Armstrong on the 5th of August last, and confirmed by your letter to him of the 7th September, that these decrees were revoked and would cease to operate from the 1st of November, has, without regard to the plighted faith of his government, announced his intention of selling the provisions which constitute a part of the cargo, under the pretext that they are perishable.

The clear and unequivocal manner in which the revocation of the Berlin and Milan decrees were announced by your excellency, forbid me for a moment to suppose, that the violent proceedings of this man will be sanctioned by his majesty the emperour and king, or that the least delay will be allowed in placing the property thus arrested at the free disposition of the rightful owner, whose confidence alone in the good faith with which it becomes nations to perform their engagements, has brought him to the place where he is so inhospitably treated.

I am persuaded that your excellency will not, on this occasion, attempt to remind me of the conditions on which the revocation of those decrees were predicated. These conditions were in the alternative, and the performance of either is sufficient to render absolute and perpetual that revocation. It is of no importance that the British orders in council have not been withdrawn, if the United States, in due time, perform the condition which depends alone on them. And what is this condition? why, to execute an act of Congress against the English, which, to be thus executed, requires the previous revocation of these very decrees. The letter of your excellency, of the 5th of August, appears to have been written with a full knowledge of this requisition of the law, and manifestly with the intention to comply with it, in order that it might be competent for the President of the United States to exercise the contingent power which had been given to him.

It will not be pretended, that the decrees have in fact been revoked; but that the delay of the United States in

performing the condition presented to them authorizes their revival. The case of the New Orleans Packet is the first which has occurred since the 1st of November, to which the Berlin or Milan decrees could be applied, and if they be applied to this case, it will be difficult for France to show one solitary instance of their having been practically revoked. As to delay on the part of the United States, there has been none. No official information of the letter of your excellency of the 5th of August, left France for the United States, owing to circumstances which it was not in the power of general Armstrong to control, until the 29th of September, and to this moment I have not learnt that such official information has been there received. I might indeed have learnt it, and been able now to have communicated to your excellency, the measures on which the President has decided in consequence of it, had not the frigate the Essex, despatched by him, been put under quarantine on her arrival at L'Orient, for the want of a bill of health, and the messenger thereby detained since the 4th of this month.

I will not undertake to decide whether a bill of health ought, in courtesy, to be exacted of a frigate of a friendly power, coming in the *winter season* from a place not known to have been lately afflicted with any malignant disease; but surely the delay which this exaction occasions, cannot be imputed to a want of due diligence on the part of the American government.

It is from this view of the subject that I am thoroughly convinced, that the application of the Berlin or Milan decree, by the director of the customs at Bordeaux, to the New Orleans Packet, will not be approved by his majesty, but that prompt and efficient measures will be taken to correct a procedure, which, if persisted in, might produce a state of things which it is the obvious interest of both nations to avoid.

I pray your excellency to be assured of my most distinguished consideration, &c.

(*Signed*) JONATHAN RUSSEL.

Copy of a Letter from Chr. Meyer to Mr. Smith, Secretary of State.

United States Consulate, Bordeaux, Dec. 6, 1810.

SIR,

I HAVE the honour to enclose a copy of Mr. Cathalan's letter to me, received this morning, concerning the recapture of the schooner Grace Ann Greene, of New York, Daniel Greene, master, who brought her into the port of Marseilles, having two British officers and seven sailors on board, and they only being six men, amongst which number two boys.

The brig New Orleans Packet, of New York, with a cargo of provisions and three hundred bags of cocoa on board, bound to the Mediterranean for a market, went to Gibraltar, where, after lying some time, came to this port, where he has been sequestered.

The schooner Friendship, of and from Baltimore, captain Snow, with a cargo of coffee and campeache, is arrived five days ago in this river. Whatever the issue may be of these two vessels, I shall have the honour to inform you of.

I remain, very respectfully, sir, &c.

(*Signed*) CHR. MEYER.

The Secretary of State of the U. States of America, Washington.

Copy of a Letter from Chr. Meyer to Mr. Smith, Secretary of State.

United States Consulate, Bordeaux, Dec. 14, 1810.

SIR,

ANNEXED is triplicate of my respects to you of the 6th instant, the brig Osmin and the ship Commodore Rogers, by which the original and duplicate went, having not got to sea yet.

The brig New Orleans Packet, of New York, captain Harris, mentioned in my former letter, has since been seized by the collector, and her cargo has been put in the imperial custom house.

The schooner Friendship, of and from Baltimore, captain Snow, has been sequestered.

This is accompanied with an account of sundry advances made for the relief of distressed seamen for this port and the port of Bayonne, with 22 vouchers, amounting to francs 4,934 20, and for which I have drawn on Jonathan Russell, Esq. our charge d'affaires at Paris.

Captain Sheddy, of the schooner Maria Louisa, bound to New York, has eight distressed seamen on board, and for whom I have paid no passage money, nor have I laid in provisions for them.

The ship Commodore Rogers, captain Shaler, from Bayonne, bound to New York, will carry home from 50 to 60 seamen in distress, of whom I shall have the honour to transmit you a list and an account by my next.

The duty on cocoa has been reduced from fr. 5 50, to fr. 2 75, per pound.

The Essex frigate is arrived at L'Orient, from the United States.

This is accompanied by a file of newspapers and which I shall have the honour to continue to send whenever opportunities to offer. I have the honour, &c. &c.

(*Signed*) CHR. MEYER.

Robert Smith, Esq. Secretary of State.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE HOUSE OF REPRESENTATIVES. FEB. 19, 1811.

I TRANSMIT to the House of Representatives a report of the Secretary of State, complying with their resolution of the eighteenth instant.

JAMES MADISON.

DEPARTMENT OF STATE, FEB. 19, 1811.

SIR,

In pursuance of the resolution of the House of Representatives of yesterday, I have the honour of laying before you the accompanying papers (marked A and B) which contain all the information, not heretofore communicated, that has been received by this department, "touching the repeal or modification as well as the practical operation of the orders and decrees affecting our neutral commerce, since the first day of November, 1810."

With the greatest respect, I have the honour to be, &c.

R. SMITH.

The President of the U. States.

(A.)

Mr. Russell to the Secretary of State.

PARIS, DEC. 4, 1810.

SIR,

This serves merely to cover a copy of my letter to Mr. Pinkney, of the 1st of this month; since that time nothing has come to my knowledge to affect the statement which it contains. It is my duty, however, to say that I have not learnt the occurrence of any case to which the Berlin and Milan decrees could be applied.

I have the honour to be, &c.

(Signed) JON. RUSSELL.

The Hon. R. Smith, Secr'y of State.

Mr. Russell to Mr. Pinkney.

PARIS, DEC. 1, 1810.

SIR,

As nothing has transpired here of sufficient importance to be communicated by a special messenger, and as no safe private conveyance has hitherto presented itself, I have delayed, till now, to acknowledge the receipt of your letters under date of the 7th and 28th of October.

No event within my knowledge has occurred, either

before or since the 1st of November, to vary the construction given by us to the very positive and precise assurances of the duke of Cadore on the 5th August, relative to the revocation of the Berlin and Milan decrees. That these decrees have not been executed for an entire month on any vessel arriving during that time, in any of the ports of France, may, when connected with the terms in which their revocation was announced, fortify the presumption that they have ceased to operate. I know, indeed, of no better evidence than this which the negative character of the case admits, or how the non-existence of an edict can be proved, except by the promulgation of its repeal and its subsequent non-execution.

Our attention here is now turned towards England and the U. States. The performance of one of the conditions on which the revocation of the decrees was predicated, and which is essential to render it permanent, is anxiously expected; and it is devoutly to be wished that England, by evincing the sincerity of her former professions, may save the United States from the necessity of resorting to the measure which exclusively depend on them.

I need not suggest to you the importance of transmitting hither as early as possible, any information of a decided character which you may possess relative to this subject, as an impatience is already betrayed here to learn that one or the other of the conditions has been performed.

I am, sir, with great respect, &c.

(*Signed*) JON. RUSSELL.

His Excellency Wm. Pinkney, Esq.

The Vice Consul at Bordeaux to the Secretary of State.

United States Consulate, Bordeaux, Dec. 31, 1810.

SIR,

I HAD the honour of addressing you the 14th instant, by this opportunity (the schooner Maria Louisa, captain Skiddy) and I have now to enclose a newspaper of yesterday, containing two letters from the French minister

of justice to the president of the tribunal of prizes, and from the minister of finance to the collector general of all the customs in France, concerning American navigation.

I have the honour to be, &c.

(*Signed*) CH. MEYER,
Vice Consul of the United States.

Hon. Robert Smith, Secretary of State.

[TRANSLATION.]

FRENCH EMPIRE. PARIS, DEC. 26, 1810.

Copy of a Letter from his excellency the grand judge, minister of justice, to the counsellor of state, president of the council of prizes.

PARIS, DEC. 25, 1810.

MR. PRESIDENT,

The minister of foreign relations, by order of his majesty, the emperour and king, addressed on the 5th of August last, to the plenipotentiary of the United States of America, a note containing the following words:

"I am authorized to declare to you that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being well understood, that in consequence of this declaration, the English will revoke their orders in council, and renounce the new principles of blockade which they wished to establish, or that the United States, in conformity to the act you have just communicated, will cause their rights to be respected by the English."

In consequence of the communication of this note, the President of the United States issued, on the 2d of November, a proclamation to announce the revocation of the decrees of Berlin and Milan, and declared that in consequence thereof, all the restrictions imposed by the act of the 1st of May must cease with respect to France and her dependencies: on the same day the treasury department addressed a circular to all the collectors of the customs of the United States, which enjoins them to admit into the

ports and waters of the United States armed French vessels; prescribes to them to apply, after the 2d of February next, to English vessels of every description, and to productions arising from the soil and industry, or the commerce of England and her dependencies, the law which prohibits all commercial relations, if at that period the revocation of the English orders in council, and of all the acts violating the neutrality of the United States, should not be announced by the treasury department.

In consequence of this engagement entered into by the government of the United States, to cause their rights to be respected, his majesty orders, that all the causes that may be pending in the council of prizes of captures of American vessels, made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d of February next, the period at which the United States having fulfilled the engagement to cause their rights to be respected, the said captures shall be declared null by the council, and the American vessels restored, together with their cargoes, to their proprietors.

Receive, Mr. President, the new assurances of my most distinguished consideration.

(*Signed*) THE DUKE OF MASSA.

Copy of a Letter from the minister of finance to the count of Sussy, counsellor of state, director general of the customs, dated Dec. 25, 1810.

On the 5th of last August, the minister of foreign relations wrote to Mr. Armstrong, minister plenipotentiary of the United States of America, that the Berlin and Milan decrees were revoked, and that after the first of November they would cease to have effect; it being well understood, that in consequence of this declaration, the English would

revoke their orders in council and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act communicated, should cause their rights to be respected by the English.

On the communication of this note, the President of the United States issued, on the 2d of November, a proclamation, which announces the revocation of the Berlin and Milan decrees, after the first of November; and which declares, that in consequence thereof, all the restrictions imposed by the act of the first of May, 1809, should cease with respect to France and her dependencies.

The same day, the treasury department addressed to the collectors of the customs a circular, which directs them to admit into the ports and waters of the United States, armed French vessels, and enjoins it on them to apply, after the 2d of February next, the law of the first of May, 1809, prohibiting all commercial relation to English vessels of every description, as well as to productions of the soil, industry or commerce of England, and her dependencies.

His majesty having seen, in these two pieces, the enunciation of the measures which the Americans purpose taking on the second of February next, to cause their rights to be respected, has ordered me to inform you, that the Berlin and Milan decrees must not be applied to any American vessels that have entered our ports since the first of November, or may enter in future; and that those which have been sequestered, as being in contravention of these decrees, must be the object of a special report.

On the second of February, I shall acquaint you with the intentions of the emperour with regard to the definitive measures to be taken for distinguishing and favouring the American navigation.

I have the honour to salute you.

The minister of finance,

(*Signed*). THE DUKE OF GAETE.

(B.)

Extract of Letter from Mr. Pinkney to Mr. Russell, dated Oct. 7, 1810.

It may not be amiss to mention that, as it will be obviously prudent, even if it be not absolutely necessary, to furnish me with all such further evidence as can conveniently be gained, confirmatory of our expectation that the French repeal of the Berlin and Milan decrees will take effect on the first of November; I beg you to transmit me such evidence if and as soon as it shall be gained. It may be yet more important to send me with as little delay as possible, *after the first of November*, the most decisive proof in your power that the repeal *has taken effect*, at least an official letter from you to me stating that fact.

Extract of a Letter from Mr. Pinkney to Mr. Smith, dated London, Nov. 7, 1810.

I enclose a duplicate of my letter of the 5th instant, in which was transmitted a copy of my note to lord Wellesley, of the third, concerning the orders in council.

I have little more to say in addition to what is contained in that letter, than that it is my intention, in case lord Wellesley gives me an unfavourable answer to it, to enter at large into the whole subject in my rejoinder; and, in case he delays improperly his reply, to take as strong notice of that impropriety as I can.

As soon as the king recovers, I mean to mention again the subject of a minister plenipotentiary to the United States, (which lord Wellesley, notwithstanding his written and verbal pledges, seems to have quite forgotten) and if satisfactory assurances are not renewed and *acted upon*, to announce my determination to return to America, and to leave a *chargé d'affaires;* in the choice of whom, however, I shall have considerable difficulty, unless you should furnish me in season with the expected secretary of legation.

I presume that in taking this course I shall fulfil the wishes of the President, and I can assure you, with great truth, that I shall consult by it my own inclinations.

[COPY.]

Mr. Pinkney to Mr. Smith.

LONDON, NOV. 14, 1810.

SIR,

I HAVE finally determined not to mention again to lord Wellesley (as I had thoughts of doing) the subject of a plenipotentiary successor to Mr. Jackson. I think, upon reflection, (and shall act accordingly) that I ought, after what has passed, to leave him, without further inquiry or notice, on my part, to shape his course upon it; and that, if an appointment should not be made as soon as the king's health (which would seem to be improving) will permit, I ought at once to send in an official note, announcing my resolution to return to America, and to leave some suitable person as a *chargé d'affaires*.

My letter of the 23d of July informed you that after lord Wellesley's written assurance of the 22d of that month (which was in conformity, as far as it went, with his assurances in conversation) "that it was his intention *immediately* to recommend the appointment of an envoy extraordinary and minister plenipotentiary from the king to the United States," I did not think myself authorized to take the step which the instructions contained in your letter of the 23d of May, in certain circumstances, prescribed.

My opinion was, that whether the prospect which then existed, of bringing to a conclusion the affair of the Chesapeake, were taken into the account or not, it was my obvious duty to remain at my post, most irksome as it was every day becoming, until it should incontestably appear, that those assurances were not to be relied upon.

Before a sufficient time had elapsed to warrant so harsh a conclusion, I received from lord Wellesley, on the 28th of August, a farther *casual* intimation (reported to you in my letter of the 29th of the same month) that his recom-

mendation of a minister would, as he believed, be made in the course of that week or the next.

In the mean time the repeal, by the government of France, of the Berlin and Milan decrees, had produced a posture of affairs which, whatever might be lord Wellesley's forgetfulness of his own declarations, or the inattention of his government to what he might advise in consequence of them, rendered my stay in England for two or three months longer, indispensable.

In fine, the effect of that consideration had not ceased when the illness of the king made it impossible that I should depart.

Upon the king's recovery, I shall have every motive for bringing this matter to an issue, and none for the least hesitation or reserve upon it. Several months will have been allowed for the performance of an act which might have been completed in as many weeks.

I shall have done every thing in my power on the subjects connected with the revocation of the French edicts. And the British government will be in a situation to admit of such proceedings on its own part and on mine as the occasion will require.

From Lord Wellesley's intimation to me on the 28th of August, (mentioned above) it is perfectly clear, that he had not then executed the intention, so positively announced in his note of the 22d of July. Five or six weeks had passed, and that which he had both said and written he meant to do *immediately*, he was not yet sure that he meant to do within another fortnight. The presumption seems, nevertheless, to be quite unnatural, that lord Wellesley continued, up to the commencement of the king's malady, to be negligent of a pledge, which he chose to rest not merely on his *official* but his *personal* character—a pledge, of which he knew I could neither question the sufficiency nor doubt the sincerity, and by which, as he also knew, my conduct on an extremely delicate point of duty was wholly determined.

On the other hand, if lord Wellesley *has* been mindful

of his pledge, and has recommended a minister in compliance with it, how has it happened (how *can* it have happened) that this recommendation has not been followed by an appointment?

In the midst of all this doubt, which lord Wellesley might dissipate if he pleased by an explanation apparently necessary for his own sake, there is, as I believe, no uncertainty as to the course which, in the actual state of my instructions (or on the score of general propriety) I ought to pursue; especially as I must infer from your silence since the arrival of Mr. Morier at Washington, (if I had no other reason for that inference) that no such communication was made, either by or through that gentleman to you, as ought in the judgment of the President to have any influence upon my conduct on this occasion.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Extract from the Postscript, dated the 15th, to Mr. Pinkney's Letter of the 14th November, 1810, to Mr. Smith.

P. S. Nov. 15th. I hear nothing from lord Wellesley, and not much from any other quarter, concerning the orders in council. I have not lately sought any interview with him on that or any other occasion. It is impossible for me to look back upon the past, and to place much value upon conferences.

I am particularly anxious to get from lord Wellesley, in case the British government persists in declining to repeal the orders, a distinct statement in *writing* of the motives of its conduct.

Thus far I have taken for granted the manifest and incontrovertible justice of our expectations; believing that there could in the first instance be no sufficient inducement for anticipating difficulties and objections in so plain a case; that if any existed they ought to be, and would be, avowed, and that when avowed, I could meet them with more advantage than while they were only conjectured.

Should, however, a studious ambiguity continue to be preserved on a subject which now touches more nearly than ever (in my opinion *vitally*) the character and rights of our country, I shall very soon think myself called upon to suppose for this government reasons which it will not declare, and to examine them with fulness and freedom in a letter to lord Wellesley. It is unnecessary in the mean time to trouble you with the view which that letter will contain. I have not lately received any thing from France which enables me to put the repeal of the French decrees in a stronger light than could otherwise be done. Mr. Russell has written me two letters, the first dated the 26th of September, and received on the 3d of October; the other dated the 10th of October, and received the 13th of November. This last enclosed a letter to me from general Armstrong, of the 29th of September. He had written me a short note from Paris, dated the 13th of September, (but not received till long afterwards) which enclosed a copy of the French minister's letter to him of the 12th of that month, already received from Mr. Russell in his letter of the 26th of September.

Such use as could be made of these different communications I have made. Of course it could be very little. A *Moniteur* of the 9th of September, containing the duke of Cadore's letter of the 5th of August to general Armstrong, (which I got through a private channel) is much more likely to be of service (if any thing can be of service) here, where that journal is considered as equivalent to the London Gazette; and I have accordingly referred to it in my note to lord Wellesley of the 3d instant.

Extract of a Letter from Mr. Pinkney to the Secretary of State, dated London, Nov. 19, 1810.

"My third letter to lord Wellesley concerning the French decrees and the British orders in council, will be presented much sooner than I had at first intended. I shall, I think, present it in a few days. Upon the other subject

of my letter to you of the 14th instant, I need not add any thing to what is there said upon it."

Extract of a Letter from Mr. Pinkney to the Secretary of State, dated London, Nov. 21, 1810.

"An American vessel (the Fox) has, within a few days past, been brought into Plymouth as prize to a king's ship (the Amethyst) for an imputed attempt to go to Cherbourg in France, in violation of the unrepealed British orders. I have requested that the case may be represented in proper form to me; and I mean to use it as the best ground for my intended letter to lord Wellesley."

Extract of a Letter from Wm. Pinkney, Esq. minister plenipotentiary of the United States, in London, to the Secretary of State, dated London, Dec. 14, 1810.

"On the 4th instant, I received from lord Wellesley a note, of which a copy marked No. 1, is enclosed, respecting the repeal of the French decrees. The conference to which it invited me took place on the 5th; and in the course of it I explained to him, at considerable length, my view of that subject, and of the points immediately connected with it. Lord Wellesley heard me in his usual manner; but confined himself to such general remarks and professions as I need not repeat to you. He proposed that our conference should be renewed on the 7th, and engaged in the mean time to report to his colleagues what I had said, and at our next interview to make me acquainted with the result.

"He introduced, of his own accord, the two subjects of a minister plenipotentiary, and the Chesapeake.

"On the *first*, he professed to entertain the same disposition and intention as heretofore, and declared that the delay which had taken place arose altogether from some obstacles, of a personal nature, to obtaining the services of the person whom he particularly wished to send to America; that he hoped these obstacles would soon be removed;

that he had another person in view if it should be otherwise; that he had not supposed that delay could be considered as of any moment by my government, after the assurance contained in his note to me in July last; that these temporary inequalities were common, and when not meant to be offensive, were never held to be so, &c. &c. &c.

"On the *second*, he informed me that he had not sent me a paper which he had prepared upon it, because he thought it would be well that the new minister should carry out the adjustment, and consequently, that it should be postponed till he was appointed. He repeated that we should have no difficulties upon it. I give you these verbal explanations as I received them.

"On the 6th instant, I received from lord Wellesley another note, of which a copy, marked No. 2, is enclosed, requesting me to recapitulate in writing my verbal communication of the 5th. With this request I complied, as you will perceive by the enclosed copy, marked No. 3, of my letter to him of the 10th.

"I could have no motive for going to him on the 7th, and had therefore no interview with him on that day.

"As the case of the *Fox* was rather pressing, and I was not sure that I could prepare my letter on the general subject in season, I sent in a separate note upon it on the 8th. A copy of that note, marked No. 4, is enclosed. I have no reply to it, and did not expect one; but I understand that the cause has been, and will be postponed.

"A newspaper copy of the President's proclamation of the 2d of November, arrived in London on the 11th instant, and produced a good deal of sensation. It gave me pleasure to find my letter to lord Wellesley so supported. I hope soon to receive an official communication of it.

"What will be done here on the affair of the orders in council, &c. I cannot yet say. The general impression seems to be, that they will do nothing! My letter to lord Wellesley was written (as my verbal communication had been given) under a persuasion that they will do nothing if they can help it. A very firm tone ought now to be assumed with this government."

(No. 1.)

FOREIGN OFFICE, DEC. 4, 1810.

SIR,

AFTER the most accurate inquiry I have not been able to obtain any authentick intelligence of the actual repeal of the French decrees, to which your notes of the 25th of August, and 3d of November refer, or of the restoration of the commerce of neutral nations to the condition in which it stood previously to the promulgation of those decrees.

If you should be in possession of any such information, I should be happy to receive it from you, and for that purpose I request to have the honour of a conference with you at this office to-morrow, at two o'clock.

I have the honour to be, &c.

(*Signed*) WELLESLEY.

WM. PINKNEY, Esq. &c. &c. &c.

(No. 2.)

FOREIGN OFFICE, DEC. 6, 1810.

SIR,

THE importance of the verbal communication which I had the honour of receiving from you yesterday, induces me to request that you will have the goodness to commit the substance of it to writing, at the earliest time which may suit your convenience.

As soon as I shall have received such a written statement from you, I shall be anxious to return an official reply in the same form.

Under these circumstances it may perhaps be unnecessary that you should take the trouble of calling at this office to-morrow.

If, however, you should be desirous of seeing me, I shall be ready to have the honour of receiving you between two and three o'clock.

I have the honour to be, &c.

(*Signed*) WELLESLEY.

WM. PINKNEY, Esq. &c. &c. &c.

(No. 3.)

Copy of a Letter from Mr. Pinkney to Lord Wellesley, dated Great Cumberland Place, Dec. 10, 1810.

MY LORD,

IN compliance with the request contained in your note of the 6th instant, I proceed to recapitulate in this letter (with some variations however) the statements and remarks which I had the honour to make in our conference of the 5th, respecting the revocation of the French decrees, as connected with a change of system here on the subject of neutral rights.

Your lordship need not be told that I should have been happy to offer, at a much earlier moment, every explanation in my power on matters of such high concern to the rights and commerce of my country, and the future character of its foreign relations, if I had been made to understand that explanation was desired.

My written communications of August and November were concise, but they were not intended to be insufficient. They furnished evidence which I thought conclusive, and abstained from laboured commentary, because I deemed it superfluous. I had taken up an opinion, which I abandoned reluctantly and late, that the British government would be eager to follow the example of France in *recalling*, as it had professed to do in *promulgating*, that extraordinary system of maritime annoyance which, in 1807, presented to neutral trade in almost all its directions the hopeless alternative of inactivity or confiscation; which considered it as a subject to be regulated, like the trade of the united kingdoms, by the statutes of the British parliament; and undertook to bend and fashion it by every variety of expedient to all the purposes and even the caprices of Great Britain. I had no idea that the remnant of that system, productive of no conceivable advantage to England, and deservedly *odious*, for its theory and destructive effects, to others, could survive the publick declaration of France that the edicts of Berlin and Milan were revoked. In-

structed at length, however, by your lordship's continued silence, and alarmed for the *property of my fellow citizens*, now more than ever exposed, by an erroneous confidence, to the ruinous operation of the British orders, I was preparing to support my general representations by detailed remonstrance, when I received the honour of your note of the 4th inst. In the conference which ensued, I troubled your lordship with a verbal communication, of which the following is nearly the substance.

The doubts which appear to stand in the way of the recall of the British orders in council, (under which denomination I include certain orders of blockade of a kindred principle and spirit) must refer to the *manner*, or the *terms*, or the *practical effect* of the alleged repeal of the decrees of France.

That the *manner* of the proceeding is satisfactory to the British government cannot be questioned; since it is precisely that in which its own numerous orders for establishing, modifying or removing blockades and other maritime obstructions, are usually proclaimed to neutral states and merchants.

The French repeal was officially notified on the 5th of August, to the minister plenipotentiary of the United States at Paris, by the French minister for foreign affairs; as I had the honour to inform your lordship in my letter of the 25th of the same month, which not only gave the import, but (as the enclosed copy will show) adopted the words of general Armstrong's statement to me of the tenour and effect of that notice.

On the 9th of August the notification to general Armstrong was published in the *Moniteur*, the official journal of the French government, as the act of that government; and thus became a formal declaration, and a publick pledge to all who had an interest in the matter of it.

It would be a waste of time to particularize the numerous instances of analogous practice in England, by which this course is countenanced; but a recent example happens to be before me, and may therefore be mentioned. The partial recall, or modification of the English blockade of

the ports and places of Spain from Gijon to the French territory, (itself known to my government only through a circular notification to me, recited afterwards in the London gazette) was declared to the American and other governments in exactly the same mode.

I think it demonstrable that the *terms* in which the French revocation was announced, are just as free from well founded objection as the *manner*.

Your lordship's view of them is entirely unknown to me; but I am not ignorant that there are those in this country who, professing to have examined them with CARE, and having certainly examined them with JEALOUSY, maintain that the revocation, on the 1st of November, was made to depend by the obvious meaning of those terms, upon a condition precedent which has not been fulfilled, namely—the revocation by Great Britain of her orders in council, including such blockading orders as France complains of as illegal.

If this were even admitted to be so, I am yet to learn upon what grounds of justice the British government could decline to meet, by a similar act on its part, an advance, thus made to it by its adversary in the face of the world, towards a co-operation in the great work of restoring the liberty of the ocean; so far, at least, as respects the orders in council of 1807 and 1809, and such blockades as resemble them. It is not necessary, however, to take this view of the question; for the French revocation turns on no condition precedent, is absolute, precise and unequivocal.

What construction of the document which declares that revocation might be made by determined suspicion and distrust, I have no wish, and am not bound to inquire. Such interpreters would not be satisfied by any form of words, and would be likely to draw the same conclusion from perfect explicitness and studied obscurity. It is enough for me that the fair and natural and necessary import of the paper affords no colour for the interpretation I am about to examine.

The French declaration "that the decrees of Berlin and

Milan ARE REVOKED and that from the 1st of November, they will cease to have any effect," is precision itself. But they are followed by these words: bien entendu qu'en consequence de cette declaration les Anglois revoqueront leurs arrêts du conseil, et *renonceront* aux nouveaux principes de blocus qu' ils ont voulu etablir, OU BIEN que les Etats Unis, *conformement a l'acte que vous venez* communique, feront respecter leur droits par les Anglois."

If these words state any *condition*, they state *two*, the first depending upon Great Britain, the last upon the United States; and as they are put in the disjunctive, it would be extravagant to hold that the non-performance of one of them is equivalent to the non-performance of both. I shall take for granted, therefore, that the argument against my construction of the duke of Cadore's letter must be moulded into a new form. It must deal with two conditions instead of one, and considering them equally as conditions precedent to be performed (disjunctively) before the day limited for the operative commencement of the French repeal, must maintain that if *neither* of them should be performed before that day, the decrees were not to be revoked, and consequently that, as neither of them *has* been so performed, the decrees are still in force.

If this hypothesis of previous conditions, thus reduced to the only shape it can assume, be proved to be unsound, my construction is at once established; since it is only upon that hypothesis that any doubt can be raised against the exact and perspicuous assurance that the decrees were actually repealed, and that the repeal would become effectual on the first of November. This hypothesis *is* proved to be unsound, by the following consideration.

It has clearly no foundation in the phraseology of the paper, which does not contain a syllable to put any condition before the repeal. The repeal is represented as a step already taken, to have effect on a day specified. Certain consequences are, indeed, declared to be expected from

this proceeding; but no day is given, either expressly or by implication, within which they are to happen. It is not said, "bien entendu que les Anglois auront revoque," &c. but "que les Anglois revoqueront," &c. indefinitely as to time.

The notion of conditions precedent is, therefore, to say the least of it, perfectly gratuitous. But it is also absurd. It drives us to the conclusion, that a palpable and notorious impossibility was intended to be prescribed as a condition, in a paper which they who think it was meant to deceive, must admit was meant to be plausible.

It was a palpable and notorious impossibility, that the United States should, before the first of November, execute *any condition*, no matter what the nature of it, the performance of which was to follow the ascertained failure of a condition to be executed by Great Britain, *at any time* before the same first of November. That the act expected from the United States was to be consequent upon the failure of the *other*, is apparent. It is also apparent, that upon any interpretation which would make the act of Great Britain a *condition precedent to the French repeal*, and consequently, precedent to the first of November (when the repeal was, if ever, to take effect) that condition could not be said to have failed before the whole *period*, from the fifth of August to the first of November, had elapsed. But if Great Britain had the whole time, within which to elect the course which she would pursue, what opportunity would be left to the United States (equally bound, upon this idea of conditions precedent, to act their part within the same period) to become acquainted with that election, and to decide upon and take their own course in consequence; to say nothing of the transmission of such intelligence of it to Europe as would be indispensable to the efficacy of the conditional revocation.

This general view would alone be sufficient to discredit the arbitrary construction under consideration. But it will be more completely exposed by an explanation of the nature of the act, which the letter professes to expect from

the United States, in case Great Britain should omit to revoke. This act is the *revival* of the non-intercourse law against England, France remaining exempt from it, as well as from the provisions of the subsequent law, commonly called the non-intercourse act. Now, if it is too plain, upon the face of the last mentioned law (to which the letter expressly refers) to escape the most negligent and unskilful observer, that this revival could not, by any industry or chance, be accomplished before the time fixed for the cessation of the French decrees, or even for a considerable time afterwards, it certainly cannot be allowable to assume, that the revival was required by the letter (whatever was the *object* of the writer or his government) to precede the cessation. And if this was not required, it is incontrovertible that the cessation would, by the terms of the letter, take place on the appointed day, whether any of the events disjunctively specified had intervened or not.

The first step towards a revival of the non-intercourse against England would be the proclamation of the President, that France had so revoked or modified her edicts, as that they ceased to violate the neutral commerce of the United States. But the letter of monsieur Champagny left the decrees, as it found them, up to the first of November, and consequently *up to that day* it could not, for any thing contained in that letter, be said that the rights of American commerce were no longer infringed by them. A prospective proclamation, that they *would* cease to violate those rights, might, perhaps, be issued; but it could scarcely have any substantial operation, either in favour of France or to the prejudice of England, until the epoch to which it looked had arrived.

Let it be admitted, however, that all physical and legal obstacles to the issuing, *before the first of November*, of a proclamation, to take effect immediately, were out of the way—how would such a proceeding fulfil, of itself, the expectation that the United States would, before the first of *November*, "cause their rights to be respected by the English" in the mode pointed out in the letter, namely, by

the enforcement of the non-intercourse law? The proclamation would work no direct or immediate consequence against England. Three months, from its date, must pass away before the non-intercourse law could revive against her; and when it did so, the revival would not be the effect of the proclamation, but of the continued adherence of England to her obnoxious system. Thus, even if a proclamation, effectual from its date, had been issued by the President on the day when the French declaration of repeal came to the hands of the American minister at Paris, the intercourse between the United States and Great Britain would, on the first of November, have remained in the same condition in which it was found in August. As all this was well understood by the government of France, the conclusion is, that its minister, professing too to have the American law before him and to expect only what was *conformable with that law*, did not intend to require the revival of the non-intercourse against England as a *condition* to be performed before the first of November.

It is worthy of remark, as introductory to another view of this subject, that even they who conclude that the repeal of the French decrees has failed, are not backward to ascribe to the French declaration a purpose utterly inconsistent with that conclusion. They suppose the purpose to have been to affect the existing relations between America and England, by the only means which the declaration states, the act of non-intercourse. And it is certain that unless England should abandon particular parts of her system, this *was* the result avowedly in view, and meant to be accomplished. But there could be no hope of such a result without a previous effectual relinquishment of the French decrees. A case could not otherwise be made to exist (as the duke of Cadore was aware) for such an operation of the American law. To put the law before the revocation of the edicts was impossible. With the law in his hand it would have been miraculous ignorance not to know that it was the exact reverse of this which his paper must propose. He would derive this knowledge, not from

that particular law only, but from the whole tenour and spirit of American proceedings, in that painful and anomalous dilemma, in which Great Britain and France, agreeing in nothing else, had recently combined to place the maritime interests of America. He would collect from those proceedings that, while those conflicting powers continued to rival each other in their aggressions upon neutral rights, the government of the United States would oppose itself impartially to both. The French declaration, then, had either no meaning at all, or it meant to announce to general Armstrong a positive revocation of the French edicts.

I should only fatigue your lordship by pursuing farther a point so plain and simple. I will therefore merely add to what I have already said on this branch of the subject, that the strong and unqualified communication from general Armstrong to me, mentioned in the commencement of this letter, and corroborated by subsequent communications (one of which I now lay before you) may perhaps, without any great effort of courtesy, be allowed to contain that "authentick intelligence" which your lordship is in search of. He could scarcely have been free from doubt if the occasion was calculated to suggest it, and if he had really doubted, would hardly have spoken to me with the confidence of conviction.

It only remains to speak of the *practical effect* of the French repeal. And here your lordship must suffer me to remind you that the orders of England in 1807, did not wait for the practical effect of the *Berlin* decree, nor linger till the obscurity, in which the meaning of that decree was supposed to be involved, should be cleared away by time or explanation. They came promptly after the decree itself, while it was not only ambiguous but inoperative, and raised upon an idle prohibition, and a yet more idle declaration, which France had not attempted to enforce, and was notoriously incapable of enforcing, a vast scheme of oppression upon the seas, more destructive of all the acknowledged rights of peaceful states than history

can parallel. This *retaliation*, as it was called, was so rapid that it was felt before the injury was said to have provoked it; and yet, that injury, such as it was, was preceded by the practical assertion, on the part of Great Britain, of new and alarming principles of publick law, in the notification of the blockade of May, 1806, and in the judicial decisions of the year before. To uphold the *retaliatory* orders, every thing was *presumed* with a surprising facility. Not only was an impotent, unexecuted, and equivocal menace presumed to be an active scourge of the commerce of neutral nations, but the acquiescence of those nations was presumed, against the plainest evidence of facts.

The alacrity with which all this was done can never be remembered without regret and astonishment; but our regret and astonishment must increase, if, after four years have been given to the *pernicious innovation*, which these presumptions were to introduce and support, something like the same alacrity should not be displayed in seizing an honourable opportunity of discarding it for ever.

It is not unnatural to imagine that it *will be* discarded with pleasure, *when it is considered*, that having never been effectual as an instrument of hostility, it cannot now lay claim to those *other* recommendations for which it may have heretofore been prized. The orders in council* have passed through some important changes; but they have been steady, as long as it was possible, to the *purpose which first impressed them a character not to be mistaken.*

In their original plan, they comprehend not only France and such allied or dependent powers as had adopted the edict of Berlin, but such other nations as had merely excluded from their ports the commercial flag of England. This prodigious expansion of the system, was far beyond any intelligible standard of *retaliation;* but it soon appeared that neutrals might be permitted to traffick under certain restrictions, with all these different nations, provided they would submit with a dependence *truly colonial,* to

* Of November.

carry on their trade through British ports, and to pay such duties as the British government should think fit to impose, and such charges as British agents and other British subjects might be content to make.

The United States abstained from this *traffick*, in which they could not embark without dishonour; and in 1809, the system shrunk to narrower dimensions, and took the appearance of an absolute prohibition of all commercial intercourse with France, Holland, and the kingdom of Italy.

The prohibition was absolute in appearance, but not in fact. It had lost something of former exuberance, but nothing of former pliancy, and in the event was seen to yield to the demands of *one* trade, while it prevented every other.

Controled and relaxed and managed by *licenses*, it did not, after a brief exhibition of impartial sternness, affect to "distress the enemy" by the occlusion of his ports, when the commerce of *England* could advantageously find its way to them. At length however, this convenience seems to be enjoyed no longer, and the orders in council may apparently be now considered (if indeed they ought not always to have been considered) as affecting England with a loss as heavy as that which they inflict on those whose rights they violate. In such circumstances, if it be too much to expect the *credulity* of 1807, it may yet be hoped, that the evidence of the *practical effect* of the French repeal need not be very strong to be satisfactory. It is however as strong as the nature of such a case will admit, as a few observations will show.

On such an occasion it is no paradox to say, that the want of evidence is itself evidence: That certain decrees are not in force, is proved by the absence of such facts as would appear if they *were* in force. Every motive which can be conjectured to have led to the repeal of the edicts invites to the full execution of that repeal, and no motive can be imagined for a different course. These considerations are alone conclusive.

But farther, it is known that American vessels bound

confessedly to England, have, before the first of November, been visited by French privateers, and suffered to pass upon the foundation of the prospective repeal of the decree of Berlin, and the proximity of the day when it would become an actual one.

If there are not even stronger facts to show that the decree of *Milan* is also withdrawn, your lordship can be at no loss for the reason. It cannot be proved that an American vessel is practically held by France. Not to be *denationalized* by British visitation, because your cruisers *visit* only to *capture*, and compel the vessel visited to terminate her voyage not in France, but in England. You will not ask for the issue of an experiment which yourselves intercept, nor complain that you have not received evidence, which is not obtained because you have rendered it impossible. The vessel which formed the subject of my note of the 8th instant, and another more recently seized as prize, would, if they had been suffered, *as they ought*, to resume their voyages after having been stopped and examined by English cruisers, have furnished on that point unanswerable proof; and I have reason to know, that precise offers have been made to the British government to put to a practical test the disposition of France in this respect, and that those offers have been refused. Your cruisers however have not been able to visit all American vessels bound to France, and it is understood, that such as have arrived have been received with friendship.

I cannot quit this last question without entering my protest against the pretension of the British government to postpone the justice which it owes to my government and country, for this tardy investigation of consequences. I am not able to comprehend upon what the pretension rests, nor to what limits the investigation can be subjected. If it were even admitted that France was more emphatically bound to repeal her almost nominal decrees than Great Britain to repeal her substantial orders (which will not be admitted) what more can reasonably be required by the latter than has been done by the former? The decrees are

officially declared by the government of France to be repealed. They were ineffectual as a material prejudice to England before the declaration, and must be ineffectual since. There is therefore nothing of substance for this dilatory inquiry, which if once begun may be protracted without end, or at least till the hour for just and *prudent* decision has passed. But, if there were room to apprehend that the repealed decrees might have some operation in case the orders in council were withdrawn, still, as there is no sudden and formidable peril to which Great Britain could be exposed by that operation, there can be no reason for declining to act at once upon the declaration of France, and to leave it to the future to try its sincerity, if that sincerity be suspected.

I have thus disclosed to your lordship, with that frankness which the times demand, my view of a subject deeply interesting to our respective countries. The part which Great Britain may act on this occasion cannot fail to have important and lasting consequences, and I can only wish that they may be good.

By giving up her orders in council and the *blockades*, to which my letter of the 21st of September relates, she has nothing to lose in character or strength. By adhering to them she will not only be *unjust to others* but *unjust to herself*. I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY, *&c. &c. &c.*

(No. 4.)

GREAT CUMBERLAND PLACE, DEC. 8, 1810.

MY LORD,

I HAVE the honour to represent to you that an American vessel, (the Fox) proceeding with an American cargo from a port of the United States to Cherbourg, in France, in the confidence that the repeal of the decrees of Berlin and Milan had, in conformity with repeated pledges and the obvious demands of justice, been followed by the revocation

of the British orders in council, has been captured since the first of last month by an English frigate, for an alleged breach of those orders, and brought into Plymouth, and since proceeded against in the high court of admiralty as prize of war.

It is my duty to require that this vessel and her cargo may be restored, as speedily as possible, to their rightful owner; that she may be left at full liberty to resume the lawful voyage in which she was engaged, and that effectual measures may be adopted with as little delay as circumstances will permit, for the prevention of similar interruptions in future.

I understand that the captors, in this case, are likely to be urgent for condemnation; and that the orders in council will, if unrepealed, be considered by the court as imposing upon it a necessity to pronounce such a sentence. I am further informed that the cause may be heard, if the captors press it, on or very soon after Tuesday next. I trust however that the necessary steps will be taken by the British government for preventing the signal injustice and the many embarrassments that could not fail to result from such an adjudication. I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to the Secretary of State.

LONDON, DEC. 23, 1810.

SIR,

I RECEIVED on the 20th instant, from Liverpool, your letter of the 19th of October, the only one yet received of a date subsequent to the 17th of July.

My letter of the 14th of November will show that I had myself resolved upon the course of proceeding which the last paragraph of your letter indicates. I now wait only for the restoration of the capacity of the government.

I presume that my note to lord Wellesley of the 21st of September, will be considered as having anticipated such parts of your letter as relate to blockades. No answer of

any sort has been given to that note, but I will not fail to take the first occasion to reinforce it, by enlarging on the considerations to which you allude. In my opinion the subject cannot be too much pressed, nor the importance of it exaggerated. If such blockades are to continue, we shall have got rid of the orders of 1807 and 1809 in vain.

You will perceive, that in my note above mentioned, I undertook to mention the blockade of the whole island of Zealand, as one of those paper blockades to which the United States objected; that in my note of the 25th of August, that blockade was comprehended under the general description of such orders as were "*analogous to*" the orders in council of 1807 and 1809; and that in my late note (of the 10th instant,) I have urged the revocation of all the blockades to which my note of the 21st of September related.

I had no instructions to warrant me in representing any other blockade than that of May, 1806, as indispensable in the view of our laws concerning commercial intercourse with Great Britain and France. I have endeavoured, however, so to shape my different notes to lord Wellesley, as that when taken together they may be considered to embrace the whole of the paper blockades for *every purpose*, or only for particular purposes, as future instructions or convenience might require.

Upon the subject of impressments I need not say any thing, as the affair of the Chesapeake has not been adjusted. For other matters, I refer you to the newspapers.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO BOTH HOUSES OF CONGRESS. NOV. 5, 1811.

FELLOW CITIZENS OF THE SENATE
AND OF THE HOUSE OF REPRESENTATIVES,

In calling you together, sooner than a separation from your homes would otherwise have been required, I yielded to considerations drawn from the posture of our foreign affairs; and in fixing the present, for the time of your meeting, regard was had to the probability of further developments of the policy of the belligerent powers towards this country, which might the more unite the national councils, in the measures to be pursued.

At the close of the last session of Congress, it was hoped that the successive confirmations of the extinction of the French decrees, so far as they violated our neutral commerce, would have induced the government of Great Britain to repeal its orders in council; and thereby authorize a removal of the existing obstructions to her commerce with the United States.

Instead of this reasonable step towards satisfaction and friendship between the two nations, the orders were, at a moment when least to have been expected, put into more rigorous execution; and it was communicated through the British envoy just arrived, that, whilst the revocation of the edicts of France, as officially made known to the British government, was denied to have taken place; it was an indispensable condition of the repeal of the British orders, that commerce should be restored to a footing that would admit the productions and manufactures of Great Britain, when owned by neutrals, into markets shut against them by her enemy: the United States being given to understand that, in the mean time, a continuance of their non-importation act would lead to measures of retaliation.

At a later date, it has indeed appeared, that a communication to the British government, of fresh evidence of the repeal of the French decrees against our neutral trade, was followed by an intimation, that it had been transmitted to the British plenipotentiary here, in order that it might receive full consideration in the depending discussions. This communication appears not to have been received: But the transmission of it hither, instead of founding on it an actual repeal of the orders, or assurances that the repeal would ensue, will not permit us to rely on any effective change in the British cabinet. To be ready to meet with cordiality satisfactory proofs of such a change, and to proceed, in the mean time, in adapting our measures to the views which have been disclosed through that minister, will best consult our whole duty.

In the unfriendly spirit of those disclosures, indemnity and redress for other wrongs, have continued to be withheld; and our coasts, and the mouths of our harbours, have again witnessed scenes, not less derogatory to the dearest of our national rights, than vexatious to the regular course of our trade.

Among the occurrences produced by the conduct of British ships of war hovering on our coasts was an encounter between one of them, and the American frigate, commanded by captain Rodgers, rendered unavoidable on the part of the latter, by a fire, commenced without cause, by the former; whose commander is, therefore, alone chargeable with the blood unfortunately shed in maintaining the honour of the American flag. The proceedings of a court of inquiry, requested by captain Rodgers, are communicated; together with the correspondence relating to the occurrence, between the Secretary of State and his Britannic majesty's envoy. To these are added, the several correspondences which have passed on the subject of the British orders in council; and to both, the correspondence relating to the Floridas, in which Congress will be made acquainted with the interposition which the government of

Great Britain has thought proper to make against the proceedings of the United States.

The justice and fairness which have been evinced on the part of the United States, towards France, both before and since the revocation of her decrees, authorized an expectation that her government would have followed up that measure, by all such others as were due to our reasonable claims, as well as dictated by its amicable professions. No proof, however, is yet given, of an intention to repair the other wrongs done to the United States; and particularly to restore the great amount of American property seized and condemned under edicts, which, though not affecting our neutral relations, and therefore not entering into questions between the United States and other belligerents, were nevertheless, founded in such unjust principles, that the reparation ought to have been prompt and ample.

In addition to this, and other demands of strict right, on that nation, the United States have much reason to be dissatisfied with the rigorous and unexpected restrictions, to which their trade with the French dominions has been subjected; and which, if not discontinued, will require at least corresponding restrictions on importations from France into the United States.

On all those subjects, our minister plenipotentiary, lately sent to Paris, has carried with him the necessary instructions; the result of which will be communicated to you, and by ascertaining the ulteriour policy of the French government towards the United States, will enable you to adapt to it, that of the United States towards France.

Our other foreign relations remain without unfavourable changes. With Russia, they are on the best footing of friendship. The ports of Sweden have afforded proofs of friendly dispositions towards our commerce, in the councils of that nation also. And the information from our special minister to Denmark, shows that the mission had been attended with valuable effects to our citizens, whose property had been so extensively violated and endangered by cruisers under the Danish flag.

Under the ominous indications which commanded attention, it became a duty to exert the means committed to the executive department, in providing for the general security. The works of defence on our maritime frontier have accordingly been prosecuted, with an activity leaving little to be added for the completion of the most important ones; and, as particularly suited for co-operation in emergencies, a portion of the gun boats have, in particular harbours, been ordered into use. The ships of war before in commission, with the addition of a frigate, have been chiefly employed as a cruising guard to the rights of our coast. And such a disposition has been made of our land forces, as was thought to promise the services most appropriate and important. In this disposition is included a force, consisting of regulars and militia, embodied in the Indiana territory, and marched towards our North Western frontier. This measure was made requisite by several murders and depredations committed by Indians; but more especially by the menacing preparations and aspect of a combination of them on the Wabash under the influence and direction of a fanatick of the Shawanese tribe. With these exceptions the Indian tribes retain their peaceable dispositions towards us, and their usual pursuits.

I must now add, that the period is arrived, which claims from the legislative guardians of the national rights a system of more ample provisions for maintaining them. Notwithstanding the scrupulous justice, the protracted moderation, and the multiplied efforts on the part of the United States, to substitute, for the accumulating dangers to the peace of the two countries, all the mutual advantages of re-established friendship and confidence; we have seen that the British cabinet perseveres, not only in withholding a remedy for other wrongs, so long and so loudly calling for it; but in the execution, brought home to the threshhold of our territory, of measures which, under existing circumstances, have the character, as well as the effect, of war on our lawful commerce.

With this evidence of hostile inflexibility, in trampling

on rights which no independent nation can relinquish, Congress will feel the duty of putting the United States into an armour, and an attitude demanded by the crisis, and corresponding with the national spirit and expectations.

I recommend, accordingly, that adequate provision be made for filling the ranks and prolonging the enlistments of the regular troops; for an auxiliary force, to be engaged for a more limited term; for the acceptance of volunteer corps, whose patriotick ardour may court a participation in urgent services; for detachments, as they may be wanted, of other portions of the militia; and for such a preparation of the great body, as will proportion its usefulness to its intrinsick capacities. Nor can the occasion fail to remind you of the importance of those military seminaries, which, in every event, will form a valuable and frugal part of our military establishment.

The manufacture of cannon and small arms has proceeded with due success: and the stock and resources of all the necessary munitions are adequate to emergencies. It will not be inexpedient, however, for Congress to authorize an enlargement of them.

Your attention will of course be drawn to such provisions, on the subject of our naval force, as may be required for the services to which it may be best adapted. I submit to Congress the seasonableness, also, of an authority to augment the stock of such materials, as are imperishable in their nature, or may not at once be attainable.

In contemplating the scenes which distinguish this momentous epoch, and estimating their claims to our attention, it is impossible to overlook those developing themselves among the great communities which occupy the southern portion of our own hemisphere, and extend into our neighbourhood. An enlarged philanthropy, and an enlightened forecast, concur in imposing on the national councils an obligation to take a deep interest in their destinies; to cherish reciprocal sentiments of good will; to regard the progress of events; and not to be unprepared for whatever order of things may be ultimately established.

Under another aspect of our situation, the early attention of Congress will be due to the expediency of further guards against evasions and infractions of our commercial laws. The practice of smuggling, which is odious every where, and particularly criminal in free governments, where, the laws being made by all for the good of all, a fraud is committed on every individual as well as on the state, attains its utmost guilt, when it blends, with a pursuit of ignominious gain a treacherous subserviency, in the transgressors, to a foreign policy adverse to that of their own country. It is then that the virtuous indignation of the publick should be enabled to manifest itself, through the regular animadversions of the most competent laws.

To secure greater respect to our mercantile flag, and to the honest interests which it covers; it is expedient also, that it be made punishable in our citizens to accept licenses from foreign governments, for a trade unlawfully interdicted by them to other American citizens; or to trade under false colours or papers of any sort.

A prohibition is equally called for, against the acceptance, by our citizens, of special licenses, to be used in a trade with the United States; and against the admission into particular ports of the United States, of vessels from foreign countries, authorized to trade with particular ports only.

Although other subjects will press more immediately on your deliberations, a portion of them cannot but be well bestowed on the just and sound policy of securing to our manufactures the success they have attained, and are still attaining, in some degree, under the impulse of causes not permanent; and to our navigation, the fair extent, of which it is at present abridged by the unequal regulations of foreign governments.

Besides the reasonableness of saving our manufactures from sacrifices which a change of circumstances might bring on them, the national interest requires, that, with respect to such articles, at least, as belong to our defence, and our primary wants, we should not be left in unnecessa-

ry dependence on external supplies. And whilst foreign governments adhere to the existing discriminations in their ports against our navigation, and an equality or lesser discrimination is enjoyed by their navigation, in our ports, the effect cannot be mistaken, because it has been seriously felt by our shipping interests; and in proportion as this takes place, the advantages of an independent conveyance of our products to foreign markets, and of a growing body of mariners, trained by their occupations for the service of their country in times of danger, must be diminished.

The receipts into the treasury, during the year ending on the thirtieth of September last, have exceeded thirteen millions and a half of dollars, and have enabled us to defray the current expenses, including the interest on the publick debt, and to reimburse more than five millions of dollars of the principal, without recurring to the loan authorized by the act of the last session. The temporary loan obtained in the latter end of the year one thousand eight hundred and ten, has also been reimbursed, and is not included in that amount.

The decrease of revenue, arising from the situation of our commerce and the extraordinary expenses which have and may become necessary, must be taken into view, in making commensurate provisions for the ensuing year. And I recommend to your consideration, the propriety of insuring a sufficiency of annual revenue, at least to defray the ordinary expenses of government, and to pay the interest on the publick debt, including that on new loans which may be authorized.

I cannot close this communication without expressing my deep sense of the crisis in which you are assembled, my confidence in a wise and honourable result to your deliberations, and assurances of the faithful zeal with which my co-operating duties will be discharged; invoking, at the same time, the blessing of Heaven on our beloved country, and on all the means that may be employed, in vindicating its rights and advancing its welfare.

JAMES MADISON.

DOCUMENTS

RELATIVE TO THE BRITISH ORDERS IN COUNCIL, ACCOMPANYING THE PRESIDENT'S MESSAGE TO CONGRESS OF NOV. 5, 1811.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 2, 1811.

SIR,

I HAVE the honour to inform you that I have received the special commands of his royal highness, the prince regent, acting in the name and on the behalf of his majesty, to make an early communication to you of the sentiments which his royal highness was pleased, on the part of his majesty, to express to Mr. Pinkney, upon the occasion of his audience of leave.

His royal highness signified to Mr. Pinkney, the deep regret with which he learnt that Mr. Pinkney conceived himself to be bound by the instructions of his government to take his departure from England.

His royal highness informed Mr. Pinkney that one of the earliest acts of his government, in the name and on the behalf of his majesty, was to appoint an envoy extraordinary and minister plenipotentiary to the government of the United States; and added, that this appointment had been made in the spirit of amity, and with a view of maintaining the subsisting relations of friendship between the two countries.

His royal highness further declared to Mr. Pinkney that he was most sincerely and anxiously desirous, on the part of his majesty, to cultivate a good understanding with the United States by every means consistent with the preservation of the maritime rights and interests of the British empire.

His royal highness particularly desired that Mr. Pinkney would communicate these declarations to the United

States in the manner which might appear best calculated to satisfy the President of his royal highness' solicitude to facilitate an amicable discussion with the government of the United States upon every point of difference which had arisen between the two governments.

I have the honour to be, &c. &c.

(*Signed*) AUG. J. FOSTER.

Hon. James Monroe, &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 3, 1811.

SIR,

I have had the honour of stating to you verbally the system of defence to which his majesty has been compelled to resort for the purpose of protecting the maritime rights and interests of his dominions, against the new description of warfare that has been adopted by his enemies. I have presented to you the grounds upon which his majesty finds himself still obliged to continue that system, and I conceive that I shall best meet your wishes as expressed to me this morning, if, in a more formal shape, I should lay before you the whole extent of the question as it appears to his majesty's government to exist between Great Britain and America.

I beg leave to call your attention, sir, to the principles on which his majesty's orders in council were originally founded. The decree of Berlin was directly and expressly an act of war, by which France prohibited all nations from trade or intercourse with Great Britain, under peril of confiscation of their ships and merchandise; although France had not the means of imposing an actual blockade in any degree adequate to such a purpose. The immediate and professed object of this hostile decree was the destruction of all British commerce, through means entirely unsanctioned by the law of nations, and unauthorized by any received doctrine of legitimate blockade.

This violation of the established law of civilized nations in war would have justified Great Britain in retaliating

upon the enemy, by a similar interdiction of all commerce with France, and with such other countries as might co-operate with France in her system of commercial hostility against Great Britain.

The object of Great Britain, was not, however, the destruction of trade, but its preservation under such regulations as might be compatible with her own security, at the same time that she extended an indulgence to foreign commerce, which strict principles would have entitled her to withhold. The retaliation of Great Britain was not, therefore, urged to the full extent of her right; our prohibition of French trade was not absolute, but modified, and in return for the absolute prohibition of all trade with Great Britain, we prohibited not all commerce with France, but all such commerce with France as should not be carried on through Great Britain.

It was evident that this system must prove prejudicial to neutral nations: this calamity was foreseen, and deeply regretted. But the injury to the neutral nation arose from the aggression of France, which had compelled Great Britain in her own defence to resort to adequate retaliatory measures of war. The operation on the American commerce of those precautions which the conduct of France had rendered indispensable to our security, is therefore to be ascribed to the unwarrantable aggression of France, and not to those proceedings on the part of Great Britain, which that aggression had rendered necessary and just.

The object of our system was merely to counteract an attempt to crush the British trade. Great Britain endeavoured to permit the continent to receive as large a portion of commerce as might be practicable through Great Britain; and all her subsequent regulations, and every modification of her system by new orders or modes of granting or withholding licenses, have been calculated for the purpose of encouraging the trade of neutrals through Great Britain, whenever such encouragement might appear advantageous to the general interests of commerce, and consistent with the publick safety of the nation.

The justification of his majesty's orders in council, and the continuance of that defence, have always been rested upon the existence of the decrees of Berlin and Milan, and on the perseverance of the enemy in the system of hostility which has subverted the rights of neutral commerce on the continent; and it has always been declared on the part of his majesty's government, that whenever France should have effectually repealed the decrees of Berlin and Milan, and should have restored neutral commerce to the condition in which it stood previously to the promulgation of those decrees, we should immediately repeal our orders in council.

France has asserted that the decree of Berlin was a measure of just retaliation on her part, occasioned by our previous aggression; and the French government has insisted that our system of blockade, as it existed previously to the decree of Berlin, was a manifest violation of the received law of nations: we must, therefore, sir, refer to the articles of the Berlin decree to find the principles of our system of blockade which France considers to be new, and contrary to the law of nations.

By the 4th and 8th articles it is stated as a justification of the French decree, that Great Britain "extends to unfortified towns and commercial ports, to harbours, and to the mouths of rivers, those rights of blockade which, by reason and the usage of nations, are applicable only to fortified places; and that the rights of blockade ought to be limited to fortresses really invested by a sufficient force."

It is added in the same articles, that Great Britain "has declared places to be in a state of blockade before which she has not a single ship of war, and even places which the whole British force would be insufficient to blockade, entire coasts and a whole empire."

Neither the practice of Great Britain nor the law of nations has ever sanctioned the rule now laid down by France, that no place, excepting fortresses in a complete state of investiture, can be deemed lawfully blockaded by sea.

If such a rule were to be admitted, it would become

nearly impracticable for Great Britain to attempt the blockade of any port of the continent; and our submission to this perversion of the law of nations, while it would destroy one of the principal advantages of our naval superiority, would sacrifice the common rights and interests of all maritime states.

It was evident that the blockade of May, 1806, was the principal pretended justification of the decree of Berlin, though neither the principles on which that blockade was founded, nor its practical operation, afforded any colour for the proceedings of France.

In point of date the blockade of May, 1806, preceded the Berlin decree; but it was a just and legal blockade according to the established law of nations, because it was intended to be maintained, and was actually maintained, by an adequate force appointed to guard the whole coast described in the notification, and consequently to enforce the blockade.

Great Britain has never attempted to dispute that in the ordinary course of the law of nations, no blockade can be justifiable or valid unless it be supported by an adequate force destined to maintain it, and to expose to hazard all vessels attempting to evade its operation. The blockade of May, 1806, was notified by Mr. Secretary Fox, on this clear principle; nor was that blockade announced until he had satisfied himself, by a communication with his majesty's board of admiralty, that the admiralty possessed the means and would employ them, of watching the whole coast from Brest to the Elbe, and of effectually enforcing the blockade.

The blockade of May, 1806, was therefore (according to the doctrine maintained by Great Britain,) just and lawful in its origin, because it was supported both in intention and fact by an adequate naval force. This was the justification of that blockade, until the period of time when the orders in council were issued.

The orders in council were founded on a distinct principle; that of defensive retaliation. France had declared a

blockade of all the ports and coasts of Great Britain, and her dependencies, without assigning, or being able to assign any force to support that blockade. Such an act of the enemy would have justified a declaration of the blockade of the whole coast of France, even without the application of any particular force to that service. Since the promulgation of the orders in council, the blockade of May, 1806, has been sustained and extended, by the more comprehensive system of defensive retaliation, on which those regulations are founded. But if the orders in council should be abrogated, the blockade of May, 1806, could not continue under our construction of the law of nations, unless that blockade should be maintained by a due application of an adequate naval force.

America appears to concur with France, in asserting that Great Britain was the original aggressor in the attack on neutral rights, and has particularly objected to the blockade of May, 1806, as an obvious instance of that aggression on the part of Great Britain.

Although the doctrines of the Berlin decree, respecting the rights of blockade, are not directly asserted by the American government, Mr. Pinkney's correspondence would appear to countenance the principles on which those doctrines are founded. The objection directly stated by America against the blockade of May, 1806, rests on a supposition that no naval force which Great Britain possessed, or could have employed for such a purpose, could have rendered that blockade effectual, and that therefore it was necessarily irregular, and could not possibly be maintained in conformity to the law of nations.

Reviewing the course of this statement, it will appear, that the blockade of May, 1806, cannot be deemed contrary to the law of nations, either under the objections urged by the French, or under those declared, or insinuated by the American government, because that blockade was maintained by a sufficient naval force: that the decree of Berlin was not, therefore, justified either under the pretexts alleged by France, or under those supported by Ame-

rica; that the orders in council were founded on a just principle of defensive retaliation, against the violation of the law of nations, committed by France in the decree of Berlin; that the blockade of May, 1806, is now included in the more extensive operation of the orders in council; and lastly, that the orders in council will not be continued beyond the effectual duration of the hostile decrees of France, nor will the blockade of May, 1806, continue after the repeal of the orders in council, unless his majesty's government shall think fit to sustain it by the special application of a sufficient naval force. This fact will not be suffered to remain in doubt, and if the repeal of the orders in council should take place, the intention of his majesty's government respecting the blockade of May, 1806, will be notified at the same time.

I need not recapitulate to you the sentiments of his majesty's government, so often repeated, on the subject of the French minister's note to general Armstrong, dated the 5th of last August. The studied ambiguity of that note has since been amply explained by the conduct and language of the government of France, of which one of the most remarkable instances is to be found in the speech of the chief of the French government on the 17th of last month, to certain deputies from the free cities of Hamburg, Bremen and Lubeck, wherein he declares that the Berlin and Milan decrees shall be the publick code of France as long as England maintains her orders in council of 1806 and 1807. Thus pronouncing as plainly as language will admit, that the system of violence and injustice, of which he is the founder, will be maintained by him until the defensive measures of retaliation to which they gave rise, on the part of Great Britain, shall be abandoned.

If other proofs were necessary to show the continued existence of those obnoxious decrees, they may be discovered in the imperial edict dated at Fontainebleau in Oct. 19, 1810, that monstrous production of violence, in which they are made the basis of a system of general and unexampled tyranny and oppression over all countries subject to, allied

with, or within reach of the power of France: in the report of the French minister for foreign affairs, dated last December, and in the letter of the French minister of justice to the president of the council of prizes. To this latter, sir, I would wish particularly to invite your attention; the date is the 25th of December; the authority it comes from most unquestionable; and you will there find, sir, the duke of Massa, in giving his instructions to the council of prizes, in consequence of the president of the United States' proclamation of Nov. 3d, most cautiously avoiding to assert that the French decrees were repealed, and ascribing not to such repeal, but to the ambiguous passage which he quotes at length from M. Champagny's letter of August 5th, the new attitude taken by America; and you will also find an evidence in the same letter of the continued capture of American ships after November 1st, and under the Berlin and Milan decrees, having been contemplated by the French government; since there is a special direction given for judgment on such ships being suspended in consequence of the American proclamation, and for their being kept as pledges for its enforcement.

Can then, sir, those decrees be said to have been repealed at the period when the proclamation of the President of the United States appeared, or when America enforced her non-importation act against Great Britain? Are they so at this moment? To the first question the state papers which I have referred to, appear to give a sufficient answer: for even supposing that the repeal had since taken place, it is clear that on November 3d, there was no question as to that not being then the case; the capture of the ship New Orleans Packet, seized at Bordeaux, and of the Grace Ann Green, seized at or carried into Marseilles, being cases arising under the French decrees of Berlin and Milan, as is very evident. Great Britain might, therefore, complain of being treated with injustice by America, even supposing that the conduct of France had since been unequivocal.

America contends that the French decrees are revoked as it respects her ships upon the high seas, and you, sir,

inform me that the only two American ships taken under their maritime operation, as you are pleased to term it, since November 1st, have been restored; but may not they have been restored in consequence of the satisfaction felt in France at the passing of the non-importation act in the American Congress, an event so little to be expected; for otherwise, why, having been captured in direct contradiction to the supposed revocation, why were they not restored immediately?

The fears of the French navy, however, prevent many cases of the kind occurring on the ocean under the decrees of Berlin and Milan; but the most obnoxious and destructive parts of those decrees are exercised with full violence, not only in the ports of France, but in those of all other countries to which France thinks she can commit injustice with impunity.

Great Britain has a right to complain that neutral nations should overlook the very worst features of those extraordinary acts, and should suffer their trade to be made a medium of an unprecedented, violent and monstrous system of attack upon her resources; a species of warfare unattempted by any civilized nation before the present period. Not only has America suffered her trade to be moulded into the means of annoyance to Great Britain under the provisions of the French decrees, but construing those decrees as extinct upon a deceitful declaration of the French cabinet, she has enforced her non-importation act against Great Britain.

Under these circumstances I am instructed by my government to urge to that of the United States, the injustice of thus enforcing that act against his majesty's dominions; and I cannot but hope that a spirit of justice will induce the United States' government to re-consider the line of conduct they have pursued, and at least to re-establish their former state of strict neutrality.

I have only to add, sir, that on my part, I shall ever be ready to meet you on any opening which may seem to afford a prospect of restoring complete harmony be-

tween the two countries, and that it will, at all times, give me the greatest satisfaction to treat with you on the important concerns so interesting to both.

I have the honour to be, &c.

(Signed) AUG. J. FOSTER.

To the Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, JULY 6, 1811.

SIR,

I HAVE had the honour to receive your letter of the 2d instant, in which you express the regret of his royal highness, the prince regent, at the departure of the American minister from Great Britain, and state that it was one of the first acts of his government to appoint an envoy extraordinary and minister plenipotentiary to the government of the United States, with a view of maintaining the subsisting relations of friendship between the two countries, and that he was solicitous to facilitate an amicable discussion with the government of the United States upon every point of difference which had arisen between the two governments.

I am instructed by the President to acknowledge to you the great satisfaction which he has derived from the communication which you have made of the disposition of his royal highness the prince regent, to cultivate friendship with the United States, and to assure you that the prompt and friendly measure which he adopted, by the appointment of an envoy extraordinary and minister plenipotentiary to this country, to maintain the relations of friendship and facilitate an amicable discussion on every point of difference that had arisen between the two governments, is considered as a favourable and interesting proof of that disposition.

I am also instructed by the President to state his ready disposition to meet, in a similar spirit, these frank and friendly assurances of the prince regent, and that nothing will be wanting on his part, consistent with the rights of

the United States, that may be necessary to promote the re-establishment, in all respects, of that good understanding between the two countries, which he considers to be highly important to the interests of both.

Permit me to add, sir, that if, as the organ of my government, I can be, in any degree, instrumental, in concert with you, in promoting such a result, I shall derive from it a very great and sincere satisfaction.

I have the honour to be, &c.

(*Signed*) JAMES MONROE.

Augustus J. Foster, Esq. &c. &c. &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 7, 1811.

SIR,

I BEG leave to acknowledge the receipt of your letter dated yesterday, in answer to mine of the 2d instant, and to assure you that it gives me very sincere pleasure to have to transmit, for the purpose of being laid before his royal highness the prince regent, acting in the name and on the behalf of his majesty, so satisfactory a testimony of the amicable manner in which the President of the United States has received the instances and assurances of a friendly disposition on the part of his royal highness towards the United States, which, by command of his royal highness, I had the honour to communicate to the President through you.

The assurances which you have added, sir, of the gratification that you would yourself derive if, as the organ of your government, your could be instrumental towards re-establishing a good understanding between both our countries, are too congenial with my own feelings on the subject not to be received with very high satisfaction.

I have the honour to be, &c.

(*Signed*) AUG. J. FOSTER.

Hon. James Monroe, Secretary of State.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 11, 1811.

SIR,

In consequence of our conversation of yesterday, and the observations which you made respecting that part of my letter to you of the 3d instant, wherein I have alluded to the principle, on which his majesty's orders in council were originally founded, I think it right to explain myself, in order to prevent any possible mistake, as to the present situation of neutral trade with his majesty's enemies.

It will only be necessary for me to repeat what has already long since been announced to the American government, namely, that his majesty's order in council of April 26, 1809, superseded those of November, 1807, and relieved the system of retaliation, adopted by his majesty against his enemies, from what was considered in this country as the most objectionable part of it—the option given to neutrals to trade with the enemies of Great Britain through British ports on payment of a transit duty.

This explanation, sir, will, I trust, be sufficient to do away any impression that you may have received to the contrary, from my observations respecting the effects which his majesty's orders in council originally had on the trade of neutral nations. Those observations were merely meant as preliminary to a consideration of the question now at issue between the two countries.

I have the honour to be, &c.

(*Signed*) AUGS. J. FOSTER.

Hon. James Monroe, &c. &c. &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 14, 1811.

SIR,

His majesty's packet boat having been so long detained, and a fortnight having elapsed since my arrival at this capital, his royal highness, the prince regent, will necessa-

rily expect that I should have to transmit to his royal highness some official communication as to the line of conduct the American government mean to pursue. I trust you will excuse me, therefore, sir, if, without pressing for a detailed answer to my note of the 3d instant, I anxiously desire to know from you what is the President's determination with respect to suspending the operation of the late act of Congress prohibiting all importation from the British dominions.

There have been repeated avowals lately made by the government of France, that the decrees of Berlin and Milan were still in full force, and the acts of that government have corresponded with those avowals.

The measures of retaliation pursued by Great Britain against those decrees, are consequently to the great regret of his royal highness still necessarily continued.

I have had the honour to state to you the light in which his royal highness, the prince regent, viewed the proclamation of the President of last November, and the surprise with which he learnt the subsequent measures of Congress against the British trade.

American ships seized under his majesty's orders in council, even after that proclamation appeared, were not immediately condemned, because it was believed that the insidious professions of France might have led the American government and the merchants of America into an erroneous construction of the intentions of France.

But when the veil was thrown aside, and the French ruler himself avowed the continued existence of his invariable system, it was not expected by his royal highness that America would have refused to retrace the steps she had taken.

Fresh proofs have since occurred of the resolution of the French government to cast away all consideration of the rights of nations, in the unprecedented warfare they have adopted.

America however still persists in her injurious measures against the commerce of Great Britain, and his royal

highness has, in consequence, been obliged to look to means of retaliation against those measures which his royal highness cannot but consider as most unjustifiable.

How desirable would it not be, sir, if a stop could be put to any material progress in such a system of retaliation, which, from step to step, may lead to the most unfriendly situation between the two countries?

His majesty's government will necessarily be guided in a great degree by the contents of my first despatches, as to the conduct they must adopt towards America.

Allow me, then, sir, to repeat my request to learn from you whether I may not convey to his royal highness what I know would be most grateful to his royal highness' feelings, namely, the hope that he may be enabled, by the speedy return of America from her unfriendly attitude towards Great Britain, to forget altogether that he ever was obliged to have any other object in view besides that of endeavouring to promote the best understanding possible between the two countries.

I have the honour to be, &c.

(*Signed*) AUG. J. FOSTER.

Hon. JAMES MONROE, *&c. &c. &c.*

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, JULY 15, 1811.

SIR,

THE reasoning and scope of the two letters I have had the honour to receive from you, dated on the 3d and 14th instant, rest essentially on a denial that the French decrees of Berlin and Milan are repealed. These decrees comprise regulations essentially different in their principles; some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

In order to understand distinctly and fully the tenour of your communications, you will pardon the request I have the honour to make of an explanation of the precise extent in which a repeal of the French decrees is made a condition

of the repeal of the British orders; and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to, or from British ports; or that they have on board British productions or manufactures. I have the honour to be, &c.

(*Signed*) JAS. MONROE.

The Hon. Augustus J. Foster, &c. &c. &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 16, 1811.

SIR,

I had the honour to receive the letter which you addressed to me under yesterday's date, requesting an explanation from me, in consequence of my letters of the 3d and 14th instant, of the precise extent in which a repeal of the French decrees is, by his majesty's government, made a condition of the repeal of the British orders, and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to, or from British ports, or that they have on board British productions or manufactures; as also, stating that in your view of the French decrees they comprise regulations essentially different in their principles; some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

You will permit me, sir, for the purpose of answering your questions as clearly and concisely as possible, to bring into view the French decrees themselves, together with the official declarations of the French minister which accompanied them.

In the body of those decrees, and in the declarations alluded to, you will find, sir, express avowals that the prin-

ciples on which they were founded, and the provisions contained in them, are wholly new, unprecedented, and in direct contradiction to all ideas of justice and the principles and usages of all civilized nations.

The French government did not pretend to say that any one of the regulations contained in those decrees, was a regulation which France had ever been in the previous practice of.

They were consequently to be considered, and were indeed allowed by France herself to be, all of them, parts of a new system of warfare, unauthorized by the established laws of nations.

It is in this light in which France herself has placed her decrees, that Great Britain is obliged to consider them.

The submission of neutrals to any regulations made by France, authorized by the laws of nations and practised in former wars, will never be complained of by Great Britain; but the regulations of the Berlin and Milan decrees do, and are declared to, violate the laws of nations and the rights of neutrals, for the purpose of attacking through them the resources of Great Britain. The ruler of France has drawn no distinction between any of them, nor has he declared the cessation of any one of them in the speech which he so lately addressed to the deputation from the free imperial Hanse Towns, which was, on the contrary, a confirmation of them all.

Not until the French decrees, therefore, shall be effectually repealed, and thereby neutral commerce be restored to the situation in which it stood previously to their promulgation, can his royal highness conceive himself justified, consistently with what he owes to the safety and honour of Great Britain, in foregoing the just measures of retaliation which his majesty in his defence was necessitated to adopt against them.

I trust, sir, that this explanation in answer to your inquiries will be considered by you sufficiently satisfactory; should you require any further, and which it may be in my power to give, I shall with the greatest cheerfulness afford it.

I sincerely hope, however, that no further delay will be thought necessary by the President, in restoring the relations of amity which should ever subsist between America and Great Britain, as the delusions attempted by the government of France have now been made manifest, and the perfidious plans of its ruler exposed, by which, while he adds to, and aggravates his system of violence against neutral trade, he endeavours to throw all the odium of his acts upon Great Britain, with a view to engender discord between the neutral countries and the only power which stands up as a bulwark against his efforts at universal tyranny and oppression.

Excuse me, sir, if I express my wish as early as possible to despatch his majesty's packet boat with the result of our communications, as his majesty's government will necessarily be most anxious to hear from me. Any short period of time, however, which may appear to you to be reasonable, I will not hesitate to detain her.

I have the honour to be, &c.

(*Signed*) AUG. J. FOSTER.

The Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, JULY 23, 1811.

SIR,

I HAVE submitted to the President your several letters, of the 3d and 16th of this month, relative to the British orders in council and the blockade of May, 1806, and I have now the honour to communicate to you his sentiments on the view which you have presented of those measures of your government.

It was hoped that your communication would have led to an immediate accommodation of the differences subsisting between our countries, on the ground on which alone it is possible to meet you. It is regretted that you have confined yourself to a vindication of the measures which produced some of them.

The United States are as little disposed now as heretofore to enter into the question concerning the priority of aggression by the two belligerents, which could not be justified by either, by the priority of those of the other. But as you bring forward that plea in support of the orders in council, I must be permitted to remark that you have yourself furnished a conclusive answer to it, by admitting that the blockade of May, 1806, which was prior to the first of the French decrees, would not be legal, unless supported through the whole extent of the coast, from the Elbe to Brest, by an adequate naval force. That such a naval force was actually applied and continued in the requisite strictness until that blockade was comprised in and superseded by the orders of November of the following year, or even until the French decree of the same year, will not I presume be alleged.

But waiving this question of priority, can it be seen, without both surprise and regret, that it is still contended that the orders in council are justified by the principle of retaliation, and that this principle is strengthened by the inability of France to enforce her decrees. A retaliation is in its name, and its essential character, a returning a like for like. Is the deadly blow of the orders in council against one half of our commerce, a return of like for like to an empty threat in the French decrees against the other half? It may be a vindictive hostility, as far as its effect falls on the enemy: but when falling on a neutral, who on no pretext can be liable for more than the measure of injury received through such neutral, it would not be a retaliation, but a positive wrong, by the plea on which it is founded.

It is to be further remarked, that the orders in council went even beyond the plea, such as this has appeared to be, in extending its operation against the trade of the United States with nations which, like Russia, had not adopted the French decrees, and with all nations which had merely excluded the British flag; an exclusion resulting as matter of course with respect to whatever nation Great Britain might happen to be at war.

I am far from viewing the modification originally contained in these orders, which permits neutrals to prosecute their trade with the continent, through Great Britain, in the favourable light in which you represent it. It is impossible to proceed to notice the effect of this modification without expressing our astonishment at the extravagance of the political pretension set up by it: a pretension which is utterly incompatible with the sovereignty and independence of other states. In a commercial view it is not less objectionable, as it cannot fail to prove destructive to neutral commerce. As an enemy, Great Britain cannot trade with France. Nor does France permit a neutral to come into her ports from Great Britain. The attempt of Great Britain to force our trade through her ports, would have, therefore, the commercial effect of depriving the United States altogether of the market of her enemy for their productions, and of destroying their value in her market by a surcharge of it. Heretofore it has been the usage of belligerent nations to carry on their trade through the intervention of neutrals, and this had the beneficial effect of extending to the former the advantages of peace while suffering under the calamities of war. To reverse the rule, and to extend to nations at peace the calamities of war, is a change as novel and extraordinary as it is at variance with justice and publick law.

Against this unjust system, the United States entered, at an early period, their solemn protest. They considered it their duty to evince to the world their high disapprobation of it, and they have done so by such acts as were deem-

consistent with the rights and the policy of the

Remote from the contentious scene which deso-

rope, it has been their uniform object to avoid

g a party to the war. With this view they have

ured to cultivate friendship with both parties by a

of conduct which ought to have produced that ef-

They have done justice to each party in every trans-

which they have been separately engaged with it.

ave observed the impartiality which was due to

both as belligerents standing on equal ground, having in no instance given a preference to either at the expense of the other. They have borne too, with equal indulgence, injuries from both, being willing, while it was possible, to impute them to casualties inseparable from a state of war, and not to a deliberate intention to violate their rights. And even when that intention could not be mistaken, they have not lost sight of the ultimate object of their policy. In the measures to which they have been compelled to resort, they have in all respects maintained pacifick relations with both parties. The alternative presented by their late acts was offered equally to both, and could operate on neither no longer than it should persevere in its aggressions on our neutral rights. The embargo and non-intercourse were pacifick measures. The regulations which they imposed on our trade were such as any nation might adopt in peace or war without offence to any other nation. The non-importation is of the same character; and if it makes a distinction at this time in its operation between the belligerents, it necessarily results from a compliance of one with the offer made to both, and which is still open to the compliance of the other.

In the discussions which have taken place on the subject of the orders in council and blockade of May, 1806, the British government, in conformity to the principle on which the orders in council are said to be founded, declared that they should cease to operate as soon as France revoked her edicts. It was stated also that the British government would proceed *pari passu* with the government of France in the revocation of her edicts. I will proceed to show that the obligation on Great Britain to revoke her orders is complete, according to her own engagement, and that the revocation ought not to be longer delayed.

By the act of May 1st, 1810, it is provided that if either Great Britain or France should cease to violate the neutral commerce of the United States, which fact the President should declare by proclamation, and the other party should not within three months thereafter revoke or modi-

fy its edicts in like manner, that then certain sections in a former act interdicting the commercial intercourse between the United States and Great Britain and France and their dependencies, should, from and after the expiration of three months from the date of the proclamation, be revived and have full force against the former, its colonies and dependencies, and against all articles the growth, produce or manufacture of the same.

The violations of neutral commerce alluded to in this act, were such as were committed on the high seas. It was in the trade between the United States and the British dominions that France had violated the neutral rights of the United States by her blockading edicts. It was in the trade with France and her allies that Great Britain had committed similar violations by similar edicts. It was the revocation of those edicts, so far as they committed such violations, which the United States had in view, when they passed the law of May 1, 1810.

On the fifth August, 1810, the French minister of foreign affairs addressed a note to the minister plenipotentiary of the United States at Paris, informing him that the decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st November following: that the measure had been taken by his government in confidence that the British government would revoke its orders and renounce its new principle of blockade, or that the United States would cause their rights to be respected, conformably to the act of May 1; 1810.

This measure of the French government was founded on the law of May 1, 1810, as is expressly declared in the letter of the duke of Cadore, announcing it. The edicts of Great Britain, the revocation of which was expected by France, were those alluded to in that act; and the means by which the United States should cause their rights to be respected in case Great Britain should not revoke her edicts, were likewise to be found in the same act. They consisted merely in the enforcement of the non-importation act against Great Britain, in that unexpected and improbable contingency.

The letter of the 5th August, which announced the revocation of the French decrees, was communicated to this government; in consequence of which, the President issued a proclamation on the 2d November, the day after that on which the repeal of the French decrees was to take effect, in which he declared, that all the restrictions imposed by the act of May 1, 1810, should cease and be discontinued in relation to France and her dependencies. It was a necessary consequence of this proclamation also, that if Great Britain did not revoke her edicts, the non-importation would operate against her at the end of three months. This actually took place. She declined the revocation, and on the 2d February last, that law took effect. In confirmation of the proclamation, an act of Congress was passed on the 2d March following.

Great Britain still declines to revoke her edicts on the pretension that France has not revoked hers. Under that impression she infers that the United States have done her injustice by carrying into effect the non-importation against her.

The United States maintain that France has revoked her edicts so far as they violated their neutral rights, and were contemplated by the law of May 1st, 1810, and have on that ground particularly claimed, and do expect of Great Britain a similar revocation.

The revocation announced officially by the French minister of foreign affairs to the minister plenipotentiary of the United States at Paris, on the 5th August, 1810. was in itself sufficient to justify the claim of the United States to a correspondent measure from Great Britain. She had declared that she would proceed *pari passu* in the repeal with France, and the day being fixed when the repeal of the French decrees should take effect, it was reasonable to conclude that Great Britain would fix the same day for the repeal of her orders. Had this been done, the proclamation of the President would have announced the revocation of the edicts of both powers at the same time; and in consequence thereof, the non-importation would have gone

into operation against neither. Such too is the natural course of proceeding in transactions between independent states; and such the conduct which they generally observe towards each other. In all compacts between nations, it is the duty of each to perform what it stipulates, and to presume on the good faith of the other, for a like performance. The United States having made a proposal to both belligerents, were bound to accept a compliance from either, and it was no objection to the French compliance, that it was in a form to take effect at a future day, that being a form not unusual in laws and other publick acts. Even when nations are at war and make peace, this obligation of mutual confidence exists, and must be respected. In treaties of commerce, by which their future intercourse is to be governed, the obligation is the same. If distrust and jealousy are allowed to prevail, the moral tie which binds nations together in all their relations, in war as well as in peace, is broken.

What would Great Britain have hazarded by a prompt compliance in the manner suggested? She had declared that she had adopted the restraints imposed by her orders in council with reluctance, because of their distressing effect on neutral powers. Here then was a favourable opportunity presented to her, to withdraw from that measure with honour, be the conduct of France afterwards what it might. Had Great Britain revoked her orders, and France failed to fulfil her engagement, she would have gained credit at the expense of France, and could have sustained no injury by it, because the failure of France to maintain her faith would have replaced Great Britain at the point from which she had departed. To say that a disappointed reliance on the good faith of her enemy, would have reproached her foresight, would be to set a higher value on that quality than on consistency and good faith, and would sacrifice to a mere suspicion towards an enemy, the plain obligations of justice towards a friendly power.

Great Britain has declined proceeding *pari passu* with

France in the revocation of their respective edicts. She has held aloof and claims of the United States proof not only that France has revoked her decrees, but that she continues to act in conformity with the revocation.

To show that the repeal is respected, it is deemed sufficient to state that not one vessel has been condemned by French tribunals, on the principle of those decrees, since the 1st November last. The New Orleans packet from Gibraltar to Bordeaux, was detained, but never condemned. The Grace Ann Green, from the same British port, to Marseilles, was likewise detained, but afterwards delivered up unconditionally to the owner, as was such part of the cargo of the New Orleans packet, as consisted of the produce of the United States. Both these vessels proceeding from a British port, carried cargoes, some articles of which in each, were prohibited by the laws of France, or admissible by the sanction of the government alone. It does not appear that their detention was imputable to any other cause. If imputable to the circumstance of passing from a British to a French port, or on account of any part of their cargoes, it affords no cause of complaint to Great Britain, as a violation of our neutral rights. No such cause would be afforded, even in a case of condemnation. The right of complaint would have belonged to the United States.

In denying the revocation of the decrees, so far as it is a proper subject of discussion between us, it might reasonably be expected that you would produce some examples of vessels taken at sea, in voyages to British ports, or on their return home, and condemned under them by a French tribunal. None such has been afforded by you. None such are known to this government.

You urge only as an evidence that the decrees are not repealed, the speech of the emperour of France to the deputies from the free cities of Hamburg, Bremen, and Lubeck; the imperial edict dated at Fontainbleau, on the 19th of October, 1810; the report of the French minister of foreign affairs dated in December last, and a letter of

the minister of justice to the president of the council of prizes of the 25th of that month.

There is nothing in the first of these papers incompatible with the revocation of the decrees, in respect to the United States. It is distinctly declared by the emperour in his speech to the deputies of the Hanse Towns, that the blockade of the British islands shall cease when the British blockades cease; and that the French blockades shall cease in favour of those nations in whose favour Great Britain revokes hers, or who support their rights against her pretension, as France admits the United States will do by enforcing the non-importation act. The same sentiment is expressed in the report of the minister of foreign affairs. The decree of Fontainbleau having no effect on the high seas, cannot be brought into this discussion. It evidently has no connection with neutral rights.

The letter from the minister of justice to the president of the council of prizes, is of a different character. It relates in direct terms to this subject, but not in the sense in which you understand it. After reciting the note from the duke of Cadore of the 5th August last, to the American minister at Paris, which announced the repeal of the French decrees, and the proclamation of the President in consequence of it, it states that all causes arising under those decrees after the 1st November, which were then before the court, or might afterwards be brought before it, should not be judged by the principles of the decrees, but be suspended until the 2d February, when the United States having fulfilled their engagement, the captures should be declared void, and the vessels and their cargoes delivered up to their owners. This paper appears to afford an unequivocal evidence of the revocation of the decrees, so far as relates to the United States. By instructing the French tribunal to make no decision until the 2d February, and then to restore the property to the owners on a particular event which has happened; all cause of doubt on that point seems to be removed. The United States may justly complain of delay in the restitution of that pro-

perty, but that is an injury, which affects them only. Great Britain has no right to complain of it. She was interested only in the revocation of the decrees by which neutral rights would be secured from future violation; or if she had been interested in the delay, it would have afforded no pretext for more than a delay in repealing her orders till the 2d February. From that day, at farthest, the French decrees would cease. At the same day ought her orders to have ceased. I might add to this statement that every communication received from the French government, either through our representative there, or its representative here, are in accord with the actual repeal of the Berlin and Milan decrees, in relation to the neutral commerce of the United States. But it will suffice to remark that the best and only adequate evidence of their ceasing to operate, is the defect of evidence that they do operate. It is a case where the want of proof against the fulfilment of a pledge is proof of the fulfilment. Every case occurring, to which, if the decrees were in force, they would be applied, and to which they are not applied, is a proof that they are not in force. And if these proofs have not been more multiplied, I need not remind you, that a cause is to be found in the numerous captures under your orders in council, which continue to evince the rigour with which they are enforced, after a failure of the basis on which they were supposed to rest.

But Great Britain contends, as appears by your last letter, that she ought not to revoke her orders in council, until the commerce of the continent is restored to the state on which it stood before the Berlin and Milan decrees issued; until the French decrees are repealed, not only as to the United States, but so as to permit Great Britain to trade with the continent. Is it then meant that Great Britain should be allowed to trade with all the powers with whom she traded at that epoch? Since that time France has extended her conquests to the north, and raised enemies against Great Britain, where she then had friends. Is it proposed to trade with them notwithstand-

ing the change in their situation? Between the enemies of one date and those of another, no discrimination can be made. There is none in reason, nor can there be any of right, in practice. Or do you maintain the general principle, and contend that Great Britain ought to trade with France and her allies? Between enemies there can be no commerce. The vessels of either taken by the other are liable to confiscation, and are always confiscated. The number of enemies or extent of country which they occupy, cannot affect the question. The laws of war govern the relation which subsists between them, which, especially in the circumstance under consideration, are invariable. They were the same in times the most remote that they now are. Even if peace had taken place between Great Britain and the powers of the continent, she could not trade with them without their consent. Or does Great Britain contend, that the United States, as a neutral power, ought to open the continent to her commerce, on such terms as she may designate? On what principle can she set up such a claim? No example of it can be found in the history of past wars, nor is it founded in any recognised principle of war, or in any semblance of reason or right. The United States could not maintain such a claim in their own favour, though neutral. When advanced in favour of an enemy, it would be the most preposterous and extravagant claim ever heard of. Every power, where not restrained by treaty, has a right to regulate its trade with other nations, in such manner as it finds most consistent with its interest; to admit, and on its own conditions, or to prohibit the importation of such articles as are necessary to supply the wants, or encourage the industry of its people. In what light would great Britain view an application from the United States, for the repeal of right, of any act of her parliament, which prohibited the importation of any article from the United States, such as their fish or their oil? Or which claimed the diminution of the duty on any other, such as their tobacco, on which so great a revenue is raised? In what light would she view a similar ap-

plication, made at the instance of France, for the importation into England, of any article the growth or manufacture of that power, which it was the policy of the British government to prohibit?

If delays have taken place in the restitution of American property, and in placing the American commerce in the ports of France on a fair and satisfactory basis, they involve questions, as has already been observed, in which the United States alone are interested. As they do not violate the revocation by France, of her edicts, they cannot impair the obligation of Great Britain to revoke hers, nor change the epoch at which the revocation ought to have taken place. Had that duly followed, it is more than probable that those circumstances, irrelative as they are, which have excited doubt in the British government, of the practical revocation of the French decrees, might not have occurred.

Every view which can be taken of this subject, increases the painful surprise at the innovations on all the principles and usages heretofore observed, which are so unreservedly contended for in your letters of the 3d and 16th instant, and which, if persisted in by your government, present such an obstacle to the wishes of the United States, for a removal of the difficulties which have been connected with the orders in council. It is the interest of belligerents to mitigate the calamities of war, and neutral powers possess ample means to promote that object, provided they sustain with impartiality and firmness the dignity of their station. If belligerents expect advantage from neutrals, they should leave them in the full enjoyment of their rights. The present war has been oppressive beyond example, by its duration, and by the desolation which it has spread throughout Europe. It is highly important that it should assume, at least, a milder character. By the revocation of the French edicts, so far as they respected the neutral commerce of the United States, some advance is made towards that most desirable and consoling result. Let Great Britain follow the example. The ground thus

gained will soon be enlarged by the concurring and pressing interests of all parties, and whatever is gained will accrue to the advantage of afflicted humanity.

I proceed to notice another part of your letter of the 3d instant, which is reviewed in a more favourable light. The President has received with great satisfaction the communication, that should the orders in council of 1807, be revoked, the blockade of May, of the preceding year, would cease with them, and that any blockade which should be afterwards instituted, should be duly notified and maintained by an adequate force. This frank and explicit declaration, worthy of the prompt and amicable measure adopted by the prince regent in coming into power, seems to remove a material obstacle to an accommodation of differences between our countries, and when followed by the revocation of the orders in council, will, as I am authorized to inform you, produce an immediate termination of the non-importation law, by an exercise of the power vested in the President for that purpose.

I conclude with remarking, that if I have confined this letter to the subjects brought into view by yours, it is not because the United States have lost sight, in any degree, of the other very serious causes of complaint, on which they have received no satisfaction, but because the conciliatory policy of this government has thus far separated the case of the orders in council from others, and because, with respect to these others, your communication has not afforded any reasonable prospect of resuming them, at this time, with success. It is presumed that the same liberal view of the true interests of Great Britain, and friendly disposition towards the United States, which induced the prince regent to remove so material a difficulty as had arisen in relation to a repeal of the orders in council, will lead to a more favourable further consideration of the remaining difficulties on that subject, and that the advantages of an amicable adjustment of every question depending between the two countries, will be seen by your govern-

ment in the same light as they are by that of the United States. I have the honour to be, &c. &c.

(*Signed*) JAS. MONROE.

Augustus J. Foster, Esq. &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 24, 1811.

SIR,

Having been unable to ascertain distinctly from your letter to me of yesterday's date, whether it was the determination of the President to rest satisfied with the partial repeal of the Berlin and Milan decrees, which you believe has taken place, so as to see no reason in the conduct of France for altering the relations between this country and Great Britain, by exercising his power of suspending the operation of the non-importation act; allow me to repeat my question to you on this point, as contained in my letter of the 14th instant, before I proceed to make any comments on your answer. I have the honour to be, &c.

(*Signed*) AUG. J. FOSTER.

The Hon. James Monroe,
Secretary of State.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, JULY 26, 1811.

SIR,

I had the honour to receive your letter of yesterday's date, in time to submit it to the view of the President before he left town.

It was my object to state to you in my letter of the 23d instant, that under existing circumstances, it was impossible for the President to terminate the operation of the non-importation law of the 2d March last: that France having accepted the proposition made by a previous law equally to Great Britain and to France, and having revoked her decrees, violating our neutral rights, and Great Britain having declined to revoke hers, it became the duty of this government to fulfil its engagement, and to declare the non-importation law in force against Great Britain.

This state of affairs has not been sought by the United States. When the proposition contained in the law of May 1st, 1810, was offered equally to both powers, there was cause to presume that Great Britain would have accepted it, in which event the non-importation law would not have operated against her.

It is in the power of the British government, at this time, to enable the President to set the non-importation law aside, by rendering to the United States an act of justice. If Great Britain will cease to violate their neutral rights by revoking her orders in council, on which event alone the President has the power, I am instructed to inform you that he will, without delay, exercise it by terminating the operation of this law.

It is presumed that the communications which I have had the honour to make to you, of the revocation by France of her decrees, so far as they violated the neutral rights of the United States, and of her conduct since the revocation, will present to your government a different view of the subject from that which it had before taken, and produce in its councils a corresponding effect.

I have the honour to be, &c.

(*Signed*) JAMES MONROE.

Aug. J. Foster, Esq. &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 26, 1811.

SIR,

I have had the honour to receive your letter of July 23d, in answer to mine of the 3d and 14th instant, which, give me leave to say, were not merely relative to his majesty's orders in council, and the blockade of May, 1806, but also to the President's proclamation of last November, and to the subsequent act of Congress of March 2d, as well as to the just complaints which his royal highness, the prince regent, had commanded me to make to your government with respect to the proclamation and to that act.

If the United States government had expected that I

should have made communications which would have enabled them to come to an accommodation with Great Britain, on the ground on which alone you say it was possible to meet us, and that you mean by that expression a departure from our system of defence against the new kind of warfare still practised by France; I am at a loss to discover from what source they could have derived those expectations, certainly not from the correspondence between the marquis Wellesley and Mr. Pinkney.

Before I proceed to reply to the arguments which are brought forward by you, to show that the decrees of Berlin and Milan are repealed, I must first enter into an explanation upon some points on which you have evidently misapprehended, for I will not suppose you could have wished to misinterpret my meaning.

And first, in regard to the blockade of May, 1806, I must aver, that I am wholly at a loss to find out from what part of my letter it is that the President has drawn the *unqualified* inference, that should the orders in council of 1807, be revoked, the blockade of May, 1806, would cease with them. It is most material that on this point no mistake should exist between us. From your letter it would appear as if, on the question of blockade which America had so unexpectedly connected with her demand for a repeal of our orders in council, Great Britain had made the concession required of her; as if, after all that has passed on the subject, after the astonishment and regret of his majesty's government at the United States having taken up the view which the French government presented, of our just and legitimate principles of blockade which are exemplified in the blockade of May, 1806, the whole ground taken by his majesty's government was at once abandoned. When I had the honour to exhibit to you my instructions, and to draw up, as I conceived according to your wishes, and those of the President, a statement of the mode in which that blockade would probably disappear, I never meant to authorize such a conclusion, and I now beg most unequivocally to disclaim it. The blockade of May, 1806,

will not continue after the repeal of the orders in council, unless his majesty's government shall think fit to sustain it by the special application of a sufficient naval force, and the fact of its being so continued or not, will be notified at the time. If in this view of the matter, which is certainly presented in a conciliatory spirit, one of the obstacles to a complete understanding between our countries can be removed by the United States' government waiving all further reference to that blockade, when they can be justified in asking a repeal of the orders, and I may communicate this to my government, it will, undoubtedly, be very satisfactory: but I beg distinctly to disavow having made any acknowledgment that the blockade would cease merely in consequence of a revocation of the orders in council. Whenever it does cease, it will cease because there will be no adequate force applied to maintain it.

On another very material point, sir, you appear to have misconstrued my words; for in no one passage of my letter can I discover any mention of innovations on the part of Great Britain, such as you say excited a painful surprise in your government. There is no new pretension set up by his majesty's government. In answer to questions of yours as to what were the decrees or regulations of France which Great Britain complained of, and against which she directs her retaliatory measures, I brought distinctly into your view the Berlin and Milan decrees; and you have not denied, because indeed you could not, that the provisions of those decrees were new measures of war on the part of France, acknowledged as such by her ruler, and contrary to the principles and usages of civilized nations. That the present war has been oppressive beyond example by its duration, and the desolation it spreads through Europe, I willingly agree with you, but the United States cannot surely mean to attribute the cause to Great Britain. The question between Great Britain and France is that of an honourable struggle against the lawless efforts of an ambitious tyrant, and America can but have the wish of every independent nation as to its result.

On a third point, sir, I have also to regret that my meaning should have been mistaken. Great Britain never contended that British merchant vessels should be allowed to trade with her enemies, or that British property should be allowed entry into their ports, as you would infer; such a pretension would indeed be preposterous; but Great Britain does contend against the system of terrour put in practice by France, by which usurping authority, wherever her arms or the timidity of nations will enable her to extend her influence, she makes it a crime to neutral countries as well as individuals that they should possess articles, however acquired, which may have been once the produce of English industry or of the British soil. Against such an abominable and extravagant pretension, every feeling must revolt; and the honour, no less than the interest, of Great Britain engages her to oppose it.

Turning to the course of argument contained in your letter, allow me to express my surprise at the conclusion you draw in considering the question of priority, relative to the French decrees or British orders in council. It was clearly proved that the blockade of May, 1806, was maintained by an adequate naval force, and therefore was a blockade founded on just and legitimate principles; and I have not heard that it was considered in a contrary light, when notified as such to you by Mr. Secretary Fox, nor until it suited the views of France to endeavour to have it considered otherwise. Why America took up the view the French government chose to give of it, and could see in it grounds for the French decrees, was always matter of astonishment in England.

Your remarks on the modifications at various times, of our system of retaliation, will require the less reply, from the circumstance of the order in council of April, 1809, having superseded them all. They were calculated for the avowed purpose of softening the effect of the original orders on neutral commerce, the incidental effect of those orders on neutrals having been always sincerely regretted by his majesty's government; but when it was found that neutrals objected to them, they were removed.

As to the principle of retaliation, it is founded on the just and natural right of self defence against our enemy; if France is unable to enforce her decrees on the ocean, it is not from the want of will, for she enforces them wherever she can do it; her threats are only empty where her power is of no avail.

In the view you have taken of the conduct of America, in her relations with the two belligerents, and in the conclusion you draw with respect to the impartiality of your country, as exemplified in the non-importation law, I lament to say I cannot agree with you. That act is a direct measure against the British trade, enacted at a time when all the legal authorities in the United States appeared ready to contest the statement of a repeal of the French decrees, on which was founded the President's proclamation of November 2d, and consequently to dispute the justice of the proclamation itself.

You urge, sir, that the British government promised to proceed *pari passu* with France in the repeal of her edicts. It is to be wished you could point out to us any step France has taken in the repeal of hers. Great Britain has repeatedly declared that she would repeal when the French did so, and she means to keep to that declaration.

I have stated to you that we could not consider the letter of August 5, declaring the repeal of the French edicts, provided we revoked our orders in council, or America resented our not doing so, as a step of that nature; and the French government knew that we could not; their object was, evidently, while their system was adhered to in all its rigour, to endeavour to persuade the American government that they had relaxed from it, and to induce her to proceed in enforcing the submission of Great Britain to the inordinate demands of France. It is to be lamented that they have but too well succeeded; for the United States' government appear to have considered the French declaration in the sense in which France wished it to be taken, as an absolute repeal of her decrees, without adverting to the conditional terms which accompanied it.

But you assert that no violations of your neutral rights by France occur on the high seas, and that these were all the violations alluded to in the act of Congress of May, 1810. I readily believe, indeed, that such cases are rare, but it is owing to the preponderance of the British navy that they are so. When scarce a ship under the French flag can venture to sea without being taken, it is not extraordinary that they make no captures. If such violations alone were within the purview of your law, there would seem to have been no necessity for its enactment. The British navy might have been safely trusted for the prevention of their occurrence. But I have always believed, and my government has believed, that the American legislators had in view in the provisions of their law, as it respects France, not only her deeds of violence on the seas, but all the novel and extraordinary pretensions and practices of her government which infringed their neutral rights.

We have had no evidence, as yet, of any of those pretensions being abandoned. To the ambiguous declaration in M. Champagny's note, is opposed the unambiguous and personal declaration of Bonaparte himself. You urge that there is nothing incompatible with the revocation of the decrees, in respect to the United States, in his expressions to the deputies from the free cities of Hamburg, Bremen and Lubeck; that it is distinctly stated in that speech *that the blockade of the British Islands shall cease when the British blockades cease*, and that the French blockade shall cease in favour of those nations in whose favour Great Britain revokes hers, or who support their rights against her pretension.

It is to be inferred from this and the corresponding parts of the declaration alluded to, that unless Great Britain sacrifices her principles of blockade, which are those authorized by the established law of nations, France will still maintain her decrees of Berlin and Milan, which indeed the speech in question declares to be the fundamental laws of the French empire.

I do not, I confess, conceive how these avowals of the

ruler of France can be said to be compatible with the repeal of his decrees in respect to the United States. If the United States are prepared to insist on the sacrifice by Great Britain of the ancient and established rules of maritime war practised by her, then, indeed, they may avoid the operation of the French decrees; but otherwise, according to this document, it is very clear that they are still subjected to them.

The decree of Fontainbleau is confessedly founded on the decrees of Berlin and Milan, dated the 19th October, 1810, and proves their continued existence. The report of the French minister of December 8, announcing the perseverance of France in her decrees, is still further in confirmation of them, and a re-perusal of the letter of the minister of justice of the 25th last December, confirms me in the inference I drew from it; for, otherwise why should that minister make the prospective restoration of American vessels taken after the 1st November, to be a consequence of the non-importation, and not of the French revocation. If the French government had been sincere, they would have ceased infringing on the neutral rights of America after the 1st November: that they violated them, however, after that period, is notorious.

Your government seem to let it be understood that an ambiguous declaration from Great Britain, similar to that of the French minister, would have been acceptable to them. But, sir, is it consistent with the dignity of a nation that respects itself to speak in ambiguous language? The subjects and citizens of either country would, in the end, be the victims, as many are already, in all probability, who from a misconstruction of the meaning of the French government, have been led into the most imprudent speculations. Such conduct would not be to proceed *pari passu* with France in revoking our edicts, but to descend to the use of the perfidious and juggling contrivances of her cabinet, by which she fills her coffers at the expense of independent nations. A similar construction of proceeding *pari passu* might lead to such decrees as those of Ram-

bouillet or of Bayonne, to the system of exclusion or of licenses; all measures of France against the American commerce, in nothing short of absolute hostility.

It is urged that no vessel has been condemned by the tribunals of France on the principles of her decrees since the 1st November. You allow, however, that there have been some detained since that period, and that such part of the cargoes as consisted of goods not the produce of America was seized, and the other part, together with the vessel itself, only released after the President's proclamation became known in France. These circumstances surely only prove the difficulty that France is under in reconciling her anti-commercial and anti-neutral system with her desire to express her satisfaction at the measures taken in America against the commerce of Great Britain. She seizes in virtue of the Berlin and Milan decrees, but she makes a partial restoration for the purpose of deceiving America.

I have now followed you, I believe, sir, through the whole range of your argument, and on reviewing the course of it I think I may securely say, that no satisfactory proof has as yet been brought forward of the repeal of the obnoxious decrees of France, but on the contrary, that it appears they continue in full force; consequently that no grounds exist on which you can with justice demand of Great Britain a revocation of her orders in council; that we have a right to complain of the conduct of the American government in enforcing the provisions of the act of May, 1810, to the exclusion of the British trade, and afterwards in obtaining a special law for the same purpose, though it was notorious at the time that France still continued her aggressions upon American commerce, and had recently promulgated anew her decrees, suffering no trade from this country but through licenses publickly sold by her agents, and that all the suppositions you have formed of innovations on the part of Great Britain, or of her pretensions to trade with her enemies, are wholly groundless. I have also stated to you the view his majesty's govern-

ment has taken of the question of the blockade of May, 1806. and it now only remains that I urge afresh the injustice of the United States' government persevering in their union with the French system, for the purpose of crushing the commerce of Great Britain.

From every consideration which equity, good policy, or interest can suggest, there appears to be such a call upon America to give up this system which favours France to the injury of Great Britain, that I cannot, however little satisfactory your communications, as yet abandon all hopes that even before the Congress meet, a new view may be taken of the subject by the President, which will lead to a more happy result. I have the honour to be, &c.

(*Signed*) AUG. J. FOSTER.

Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, OCT. 1, 1811.

SIR,

I have had the honour to receive your letter of the 26th of July, and to submit it to the view of the President.

In answering that letter, it is proper that I should notice a complaint that I had omitted to reply in mine of the 23d of July, to your remonstrance against the proclamation of the President of November last, and to the demand which you had made, by the order of your government, of the repeal of the non-importation act of March 2d, of the present year.

My letter has certainly not merited this imputation.

Having shown the injustice of the British government in issuing the orders in council on the pretext assigned, and its still greater injustice in adhering to them after that pretext had failed, a respect for Great Britain, as well as for the United States, prevented my placing in the strong light in which the subject naturally presented itself, the remonstrance alluded to, and the extraordinary demand founded on it, that while your government accommodated in nothing, the United States should relinquish the ground,

which, by a just regard to the publick rights and honour, they had been compelled to take. Propositions tending to degrade a nation can never be brought into discussion by a government not prepared to submit to the degradation. It was for this reason that I confined my reply to those passages in your letter, which involved the claim of the United States, on the principles of justice, to the revocation of the orders in council. Your demand, however, was neither unnoticed nor unanswered. In laying before you the complete, and as was believed, irresistible proof on which the United States expected, and called for the revocation of the orders in council, a very explicit answer was supposed to be given to that demand.

Equally unfounded is your complaint that I misunderstood that passage which claimed, as a condition of the revocation of the orders in council, that the trade of Great Britain with the continent should be restored to the state in which it was before the Berlin and Milan decrees were issued. As this pretension was novel and extraordinary, it was necessary that a distinct idea should be formed of it, and, with that view, I asked such an explanation as would enable me to form one.

In the explanation given, you do not insist on the right to trade in British property with British vessels, directly with your enemies. Such a claim you admit would be preposterous. But you do insist by necessary implication that France has no right to inhibit the importation into her ports of British manufactures, or the produce of the British soil, when the property of neutrals; and that, until France removes that inhibition, the United States are to be cut off by Great Britain from all trade whatever with her enemies.

On such a pretension it is almost impossible to reason. There is, I believe, no example of it in the history of past wars. Great Britain, the enemy of France, undertakes to regulate the trade of France; nor is that all; she tells her that she must trade in British goods. If France and Great Britain were at peace, this pretension would not be

set up, nor even thought of. Has Great Britain then acquired, in this respect, by war, rights which she has not in peace? And does she announce to neutral nations, that unless they consent to become the instruments of this policy, their commerce shall be annihilated, their vessels shall be shut up in their own ports?

I might ask whether French goods are admitted into Great Britain, even in peace, and if they are, whether it be of right, or by the consent and policy of the British government?

That the property would be neutralized does not affect the question. If the United States have no right to carry their own productions into France with the consent of the French government, how can they undertake to carry there those of Great Britain? In all cases it must depend on the interest and the will of the party.

Nor is it material to what extent, or by what powers, the trade to the continent is prohibited. If the powers who prohibit it, are at war with Great Britain, the prohibition is a necessary consequence of that state. If at peace, it is their own act, and whether it be voluntary or compulsive, they alone are answerable for it. If the act be taken at the instigation and under the influence of France, the most that can be said is, that it justifies reprisal against them by a similar measure; on no principle whatever can it be said to give any sanction to the conduct of Great Britain towards neutral nations.

The United States can have no objection to the employment of their commercial capital in the supply of France, and of the continent generally, with manufactures, and to comprise in the supply those of Great Britain, provided those powers will consent to it. But they cannot undertake to force such supplies on France or on any other power, in compliance with the claim of the British government, on principles incompatible with the rights of every independent nation, and they will not demand in favour of another power, what they cannot claim for themselves.

All that Great Britain could with reason complain of,

was the inhibition by the French decrees, of the lawful trade of neutrals with the British dominions. As soon as that inhibition ceased, her inhibition of our trade with France ought in like manner to have ceased. Having pledged herself to proceed *pari passu* with France, in the revocation of their respective acts violating neutral rights, it has afforded just cause of complaint, and even of astonishment, to the United States, that the British government should have sanctioned the seizure and condemnation of American vessels, under the orders in council, after the revocation of the French decrees was announced, and even in the very moment when your mission, avowed to be conciliatory, was to have its effect. I will only add, that had it appeared finally, that France had failed to perform her engagement, it might at least have been expected, that Great Britain would not have molested such of the vessels of the United States as might be entering the ports of France, on the faith of both governments, till that failure was clearly proved.

To many insinuations in your letter, I make no reply, because they sufficiently suggest the only one that would be proper.

If it were necessary to dwell on the impartiality which has been observed by the United States towards the two belligerents, I might ask, whether, if Great Britain had accepted the condition which was offered equally to her and France, by the act of May 1, 1810, and France had rejected it, there is cause to doubt that the non-importation act would have been carried into effect against France? No such doubt can possibly exist, because in a former instance, when this government, trusting to a fulfilment by yours, of an arrangement which put an end to a non-intercourse with Great Britain, the non-intercourse was continued against France, who had not then repealed her decrees, as it was not doubted that England had done. Has it not been repeatedly declared to your government, that if Great Britain would revoke her orders in council, the President would immediately cause the non-importa-

tion to cease? You well know that the same declaration has been often made to yourself, and that nothing is wanting to the removal of the existing obstructions to the commerce between the two countries, than a satisfactory assurance, which will be received with pleasure from yourself, that the orders in council are at an end.

By the remark in your letter of the 3d of July, that the blockade of May, 1806, had been included in the more comprehensive system of the orders in council of the following year, and that, if that blockade should be continued in force, after the repeal of the orders in council, it would be in consequence of the special application of a sufficient naval force; I could not but infer your idea to be, that the repeal of the orders in council would necessarily involve the repeal of the blockade of May. I was the more readily induced to make this inference from the consideration, that if the blockade was not revoked by the repeal of the orders in council, there would be no necessity for giving notice that it would be continued, as by the further consideration, that according to the decision of your court of admiralty, a blockade instituted by proclamation, does not cease by the removal of the force applied to it, nor without a formal notice by the government to that effect.

It is not, however, wished to discuss any question relative to the mode by which that blockade may be terminated. Its actual termination is the material object for consideration.

It is easy to show, and it has already been abundantly shown, that the blockade of May, 1806, is inconsistent in any view that may be taken of it, with the law of nations. It is also easy to show that, as now expounded, it is equally inconsistent with the sense of your government when the order was issued, and this change is a sufficient reply to the remarks which you have applied to me personally.

If you will examine the order, you will find that it is strictly little more than a blockade of the coast from the Seine to Ostend. There is an express reservation in it, in

favour of neutrals to any part of the coast between Brest and the Seine, and between Ostend and the Elbe. Neutral powers are permitted by it to take from their own ports every kind of produce without distinction, as to its origin, and to carry it to the continent, under that limitation, and with the exception only of contraband of war and enemy's property, and to bring thence to their own ports in return whatever articles they think fit. Why were contraband of war and enemy's property excepted, if a commerce even in those articles would not otherwise have been permitted under the reservation? No order was necessary to subject them to seizure; they were liable to it by the law of nations, as asserted by Great Britain.

Why then did the British government institute a blockade, which, with respect to neutrals, was not vigorous as to the greater part of the coast comprised in it? If you will look to the state of things which then existed between the United States and Great Britain, you will find the answer—a controversy had taken place between our governments on a different topick, which was still depending. The British government had interfered with the trade between France and her allies, in the produce of their colonies. The just claim of the United States was then a subject of negotiation, and your government, professing its willingness to make a satisfactory arrangement of it, issued the order which allowed the trade, without making any concession as to the principle, reserving that for adjustment by treaty. It was in this light that I viewed, and in this sense that I represented that order to my government, and in no other did I make any comment on it.

When you reflect that this order, by allowing the trade of neutrals in colonial productions to all that portion of the coast which was not rigorously blockaded, afforded to the United States an accommodation in a principal point then at issue between our governments, and of which their citizens extensively availed themselves; that that trade, and the question of blockade, and every other question in which the United States and Great Britain were interest-

ed, were then in a train of amicable negotiation; you will, I think, see the cause why the minister, who then represented the United States with the British government, did not make a formal complaint against it. You have appealed to me, who happened to be that minister, and urged my silence as an evidence of my approbation of, or at least acquiescence in the blockade: an explanation of the cause of that supposed silence, is not less due to myself than to the true character of the transaction. With the minister with whom I had the honour to treat, I may add, that an official formal complaint was not likely to be resorted to, because friendly communications were invited and preferred. The want of such a document is no proof that the measure was approved by me, or that no complaint was made.

In recalling to my mind, as this incident naturally does, the manly character of that distinguished and illustrious statesman, and the confidence with which he inspired all those with whom he had to treat, I shall be permitted to express, as a slight tribute of respect to his memory, the very high consideration in which I have always held his great talents and virtues.

The United States have not, nor can they approve the blockade of an extensive coast. Nothing certainly can be inferred from any thing that has passed relative to the blockade of May, 1806, to countenance such an inference.

It is seen with satisfaction that you still admit that the application of an adequate force is necessary to give a blockade a legal character, and that it will lose that character whenever that adequate force ceases to be applied. As it cannot be alleged that the application of any such adequate force has been continued and actually exists, in the case of the blockade of May, 1806, it would seem to be a fair inference that the repeal of the orders in council will leave no insuperable difficulty with respect to it. To suppose the contrary would be to suppose that the orders in council, said to include that blockade, resting themselves on a principle of retaliation only, and not sustained by the

application of an adequate force, would have the effect of sustaining a blockade admitted to require the application of an adequate force, until such adequate force should actually take the place of the orders in council. Whenever any blockade is instituted, it will be a subject for consideration, and if the blockade be in conformity to the law of nations, there will be no disposition in this government to contest it. I have the honour to be, &c.

(*Signed*) JAS. MONROE.

Augustus J. Foster, Esq. &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, OCT. 17, 1811.

SIR,

I HAVE the honour to communicate to you a copy of two letters from the charge d'affaires of the United States at Paris, to their charge d'affaires at London, and a copy of a correspondence of the latter with the marquis of Wellesley on the subject. By this it will be seen that Mr. Smith was informed by the marquis of Wellesley, that he should transmit to you a copy of the communication from Paris, that it might have full consideration in the discussions depending here.

Although an immediate repeal was to have been expected from your government, on the receipt of this communication, if the new proof which it affords of the French repeal was satisfactory; yet it will be very agreeable to learn that you are now authorized to concur in an arrangement that will terminate both the orders in council and the non-importation act. I have the honour to be, &c.

(*Signed*) JAMES MONROE.

Augustus J. Foster, Esq. &c. &c. &c.

P. S. Hearing that you will not be in town for several days, this letter, and one bearing date on the 1st of this month, which I had prepared, and intended to deliver to you on my return here, are forwarded by a special messenger.

Mr. Russell to Mr. J. S. Smith.

PARIS, JULY 5, 1811.

SIR,

I OBSERVE by your letter of the 7th ultimo, your solicitude to obtain evidence of the revocation of the Berlin and Milan decrees.

On the 5th of August last the duke of Cadore announced to general Armstrong, that these decrees were revoked, and that they would cease to operate on the 1st of November. Since the 1st of November these decrees have not, to my knowledge, in any *instance* been executed to the prejudice of American property arriving since that time; on the contrary, the Grace Ann Greene, coming clearly within the penal terms of those decrees, had they continued in force, was liberated in December last, and her cargo admitted in April. This vessel had, indeed, been taken by the English, and re-taken from them; but as this circumstance is not assigned here as the cause of the liberation of this property, it ought not to be presumed to have operated alone as such.

Whatever special reasons may be supposed for the release of the Grace Ann Greene, that of the New Orleans Packet must have resulted from the revocatian of the French edicts.

The New Orleans Packet had been boarded by two English vessels of war, and had been some time at an English port, and thus doubly transgressed against the decrees of Milan. On arriving at Bordeaux, she was in fact seized by the director of the customs, and these very transgressions expressly assigned as the cause of seizure. When I was informed of this precipitate act of the officer at Bordeaux, I remonstrated against it on the sole ground that the decrees, under which it was made, had been revoked. This remonstrance was heard. All further proceedings against the New Orleans Packet were arrested, and on the 9th of January, both the vessel and cargo were ordered to be placed at the disposition of the owners, on giving bond.

This bond has since been cancelled by an order of the government; and thus the liberation of the property perfected. The New Orleans Packet has been some time waiting in the Garonne, with her return cargo on board, for an opportunity only of escaping the English orders in council.

I know of no other American vessel arrived voluntarily in the empire of France or the kingdom of Italy, since the 1st of November, to which the decrees of Berlin and Milan could be applied. I am, sir, &c.

(*Signed*) JONA. RUSSELL.

J. S. Smith, Esq. charge d'affairs, London.

Mr. Russell to Mr. J. S. Smith.

PARIS, JULY 14, 1811.

SIR,

I had the honour to address to you, on the 5th instant, a brief account of the Grace Ann Greene and of the New Orleans Packet. The proofs which these cases furnish, especially the latter, ought, when unopposed, as it is, by any conflicting circumstance, to be considered as conclusive of the revocation of the French edicts, to which, if continued in force, these cases would have been liable. In addition, however, to this evidence, I have now the satisfaction to communicate to you the liberation of the Two Brothers, the Good Intent, and the Star, three American vessels captured since the first of November, and brought into this empire, or into ports under its control. I should have no doubt been able to have announced the release, by one general decision, of every American vessel captured since that period, if the only inquiry were whether or not they had violated the Berlin and Milan decrees. Unfortunately, however, the practices of late years render the question of property extremely difficult to be satisfactorily decided amidst false papers and false oaths. After the most minute and tedious investigation, it often remains doubtful whether this pro-

perty belongs to a neutral or an enemy. The time employed in this investigation has surely no connection with the Berlin and Milan decrees, and cannot be considered as evidence of their continuance.

It is possible that these decrees may be kept in force in their municipal character, and be applied for the confiscation of English merchandise on the continent; and to prevent their performing this function does not appear to be a concern of the United States, nor can the measure adopted in retaliation of it, on the part of England, be justly extended beyond its limits, and made to reach an unoffending neutral power, which the act of her enemy does not affect.

It is sufficient for us, that the Berlin and Milan decrees have ceased to be executed on the high seas, and if the orders in council still continue to operate there, they surely are not supported by any principle of the law of retaliation, but must be considered as a simple and unqualified violation of our neutral and national rights.

The proof now before you of the revocation of the Berlin and Milan decrees, consists in the precise and formal declarations of this government—in its discontinuance to execute them to our prejudice in a single instance—in its having exempted from their operation every vessel arriving spontaneously since the 1st November, to which they could be applied, and every vessel forcibly brought in since that time, on which there has been a decision. After such evidence, to pretend to doubt of their revocation with regard to us, would seem to be the result of something more than mere incredulity.

With much respect, I am, sir, &c. &c.

(*Signed*) JONA. RUSSELL.

J. S. Smith, Esquire,
Charge d'affairs, London.

Mr. J. S. Smith to the Marquis Wellesley.

BENTINCK STREET, JULY 23, 1811.

MY LORD,

THE letter which I have the honour to present to your lordship, has been just received by me from Mr. Russell. So full and complete is this document, that I conceive it quite unnecessary to add any comments or remarks of my own. I shall, however, have much pleasure in furnishing any other explanations in my power, either verbal or written, that your lordship may desire.

Any doubts that may have existed here of the effectual repeal of the decrees of Berlin and Milan will now, I feel assured, be completely removed; and I feel equally confident that this revocation of the French edicts will be immediately followed by that of the orders in council, which affect the neutral commerce of the United States. I need not assure your lordship of the great satisfaction I shall have in communicating this event to my government.

As the "orders in council" have been ever declared by his majesty's government to be only of a retaliating character, and that they would cease to have any effect when the causes upon which they were founded had ceased to exist, I trust that no argument is necessary to show (if your lordship shall feel the force with which the accompanying document unequivocally demonstrates the abandonment, on the part of France, of her decrees) that the "orders in council" should be so revoked as to embrace the American vessels that have been captured by British cruisers since the first of November, the period at which the French edicts were revoked.

I have the honour to subjoin to this the circumstances of the two vessels to which Mr. Russell alludes in his letter.

The *Grace Ann Greene* had been captured by an English cruiser; was retaken by her own crew, and arrived at Marseilles, where vessel and cargo were, notwithstanding, admitted.

The *New Orleans Packet* had been boarded by two English cruisers, and had been also at an English port, thus doubly transgressing against the French edicts. She arrived at Bordeaux, was seized by the director of the customs for these very transgressions, but, on the remonstrance of Mr. Russell, was immediately released, and has been admitted, vessel and cargo.

I have the honour to be, &c.

(*Signed*) J. S. SMITH.

The most noble, the Marquis WELLESLEY.

Marquis Wellesley to J. S. Smith, Esq.

FOREIGN OFFICE, AUG. 8, 1811.

SIR,

YOUR letter of the 23d ultimo has been under the consideration of his royal highness, the prince regent, and has received all the attention to which it is entitled.

I am commanded by his royal highness to acquaint you, that he has thought fit to postpone the answer to your letter until advices, which are hourly expected from Mr. Foster, shall have been received.

I have the honour to be, &c.

(*Signed*) WELLESLEY.

J. S. Smith, Esq. &c.

Lord Wellesley to J. S. Smith, Esq.

FOREIGN OFFICE, AUG. 14, 1811.

SIR,

SINCE the date of my last letter, I have the honour to inform you, that I have received a letter from Mr. Foster, his majesty's minister in America, by which it appears that he had actually commenced a negotiation with the government of the United States, respecting the British orders in council. His despatches containing the particulars of the negotiation, have not yet reached me. Under these circumstances, I have transmitted a copy of your letter, together with its enclosure, to Mr. Foster, in order

that those documents may receive full consideration in the progress of the discussions now depending in America.

I have the honour to be, &c.

(*Signed*) WELLESLEY.

J. S. Smith, Esq.

Mr. Foster to Mr. Monroe.

WASHINGTON, OCT. 22, 1811.

SIR,

I had the honour to receive your letter of 17th instant, together with its three enclosures, on the road between Baltimore and this city; I had that of receiving, at the same time, your letter dated October 1, in answer to mine of the 26th of last July.

Not having had any despatches from his majesty's government lately, I have not as yet received the copy of the recent communication from Paris, in regard to the supposed repeal of the French decrees, which the charge d'affaires of the United States at London has intimated to you that he understood the marquis Wellesley intended to transmit to me, and which I conclude is the same as that contained in the letter of Mr. Russell, the American charge d'affaires in France. I am, however, in daily expectation of the arrival of his majesty's packet boat, when it will, in all probability, reach me, and when, if I should receive any fresh instructions in consequence, I will not fail immediately to acquaint you. In the mean while, however, I beg you will permit me to make some remarks in reply to your letter of October 1, being extremely anxious to do away the impression which you seem to have received relative to the demand I had made for the repeal of the non-importation act of the present year.

It is, I assure you, sir, with very great regret that I find you consider that demand as involving in any degree propositions tending to degrade your nation. Such an idea certainly never existed with his majesty's government, nor would it be compatible with the friendly sentiments entertained by them for the United States; neither could I

have suffered myself to be the channel of conveying a demand which I thought had such a tendency. However you may view the demand made on the part of Great Britain, I can safely say that it was made in consequence of its appearing to his majesty's government on strong evidence that the chief of the French nation had really deceived America as to the repeal of his decrees, and in the hopes that the United States' government would therefore see the justice of replacing this country on its former footing of amicable relations with England; nothing appearing to be more natural than such an expectation, which seemed a necessary consequence of the disposition expressed by America to maintain her neutrality, and desirable in every other point of view. I cannot, indeed, bring myself to think, sir, that your candour would allow you, on a reconsideration, to put any other construction on the matter, and had my arguments had sufficient weight with you in showing that the French decrees were still in force, I cannot doubt but you would have agreed with me in the conclusion I drew. It would seem therefore only owing to your not viewing the deceitful conduct of the French government in the same light that it appears to his majesty's government, that a difference of opinion exists between us as to the proposal I made, which, under the conviction entertained by them, was surely a very just and natural one.

From the earnest desire of vindicating myself and my government from the charge of making any degrading or unjust demands on that of America, I have taken the liberty to trouble you so far, and I will now proceed to show why I thought you had misunderstood the passage of my letter which related to the extent in which the repeal of the French decrees was required by Great Britain. In the explanation which you desired on this point, I gave you that which the marquis Wellesley gave to Mr. Pinkney, in answer to his letter of August 25, 1810, and I beg to refer you to the message of the President of the United States on the opening of Congress in December, 1810, for a proof that the demand of Great Britain, in the extent in

which I have stated it, was known to your government several months ago; how was I, therefore, to suppose, in the term innovations as applied to the explanation given by me, that you could mean otherwise than some really new pretension on the part of Great Britain, such as that France should suffer British property to be carried into her ports for the purposes of trade. If the warmth I was betrayed into, in endeavouring to refute a supposed imputation of this sort, gave any offence, I sincerely regret it; and I will beg permission here to say, sir, that if unconsciously I have, by any of my remarks, led you to suppose they conveyed any improper insinuations, as one paragraph of your letter would appear to imply, I am most unfeignedly sorry for it, as I entertain the highest respect for you personally and for your government, and could only have meant what I wrote in the way of argument, or for the purpose of contrasting the proceedings of France in her conduct towards the United States with that of Great Britain.

In reverting to the extraordinary and unprecedented situation of things that have arisen out of the war in Europe, it would seem needless to repeat the evidence there is that the lawless and unbounded ambition of the ruler of France has been the origin of it, and it cannot be a secret to the United States' government, that his plan has been, and avowedly continues to be, not to scruple at the violation of any law, provided he can thereby overthrow the maritime power of England. Is it not, therefore, reasonable in Great Britain to distrust an ambiguous declaration of his having suddenly given up any part of a system which he thought calculated to produce such an effect? You say, however, that the decrees of Berlin and Milan are revoked. America, as not being at war, and therefore, not seeing so nearly into the views of France, may be less scrupulous as to the evidence necessary to prove the fact; but, sir, it surely cannot be expected that Great Britain, who is contending for every thing that is dear to her, should not require more proof on a point so material to her.

It is undoubtedly a very desirable thing for the United States to have a free and unrestricted trade with both belligerents, but the essential security and most important interests of America are not involved in the question as are those of Great Britain. France has levelled a blow which she hopes will prove deadly to the resources of Great Britain, and before the British government can, with safety, give up the measures of defence in consequence adopted by them, very strong proof must exist of the cessation, by France, of her novel and unprecedented measures.

I confess, sir, with the sincerest disposition to discover on the part of the ruler of France, a return to the long established practice of warfare as exercised in civilized Europe, I have been unable to succeed; and if the French government had really meant to withdraw their obnoxious decrees, it is inconceivable why, instead of allowing their intention to be guessed at or inferred, they should not openly and in plain language have declared so: the decrees themselves having been clearly enough announced on their enactment, why should not their revocation be equally explicit.

While, however, numerous declarations have been made on the part of France, of the continued existence of the decrees, and captures made under them of neutral ships have occurred, a few of the American vessels seized since November 1, have been restored, and the foregoing, a very small part of his plunder, is desired by Bonaparte to be considered as a proof of the sincerity of his revocation by America; but it must be recollected that besides the object of ruining the British resources, by his own unauthorized regulations, he has also that of endeavouring to obtain the aid of the United States for the same purpose, and herein you will, as I had the honour to remark in a former letter, be able to observe the cause of the apparently contradictory language held both by himself and his ministers.

I should be extremely happy to receive from you, sir,

the information that in a frank and unambiguous manner the chief of the French government had revoked his decrees. Why he should not do so is inexplicable, if he means to revert to the ordinary rules of war; but while he exercises such despotick sway wherever his influence extends, to ruin the resources of England, it cannot be expected that Great Britain shall not use the means she possesses for the purpose of making him feel the pressure of his own system. There is every reason to believe that ere long the effects on the enemies of Great Britain, will be such as irresistibly to produce a change which will place commerce on its former basis. In the mean time, sir, I hope you will not think it extraordinary if I should contend that the seizure of American ships by France, since November 1, and the positive and unqualified declarations of the French government, are stronger proofs of the continued existence of the French decrees, and the bad faith of the ruler of France, than the restoration of five or six vessels, too palpably given up for fallacious purposes, or in testimony of his satisfaction at the attitude taken by America, is a proof of their revocation, or of his return to principles of justice.

I will only repeat, sir, in answer to your observations, on the late condemnation of the ships taken under his majesty's orders in council, what I have already had the honour to state to you, that the delay which took place in their condemnation, was not a consequence of any doubt existing in his majesty's government, as to whether the French decrees were revoked, as you seem to imagine, but in consequence of its being thought that the American government, upon its appearing that they were deceived by France, would have ceased their injurious measures against the British commerce. A considerable time elapsed before the decision took place on those ships, and there is no doubt, but that had the United States' government not persisted in their unfriendly attitude towards Great Britain, on discovering the ill faith of France, a spirit of conciliation in his majesty's government would have caused their release.

In reply to your observations, on these pretensions of Great Britain relative to the revocation of the French decrees, I beg to repeat that the sum of the demands made by England is, that France should follow the established laws of warfare as practised in former wars in Europe. Her ruler, by his decrees of Berlin and Milan, declared himself no longer bound by them; he has openly renounced them in his violent efforts to ruin the resources of Great Britain, and has trampled on the rights of independent nations to effect his purpose. If the French government make use of means of unprecedented violence, to prevent the intercourse of England with unoffending neutrals, can it be expected that England should tamely suffer the establishment of such a novel system of war without retaliation, and endeavouring in her turn to prevent the French from enjoying the advantages of which she is unlawfully deprived.

Having explained, already, the situation in which the question of the blockade of May, 1806, rests, according to the views of his majesty government, and the desire of Great Britain to conduct her system of blockade according to the laws of nations, I will only advert to it on this occasion, for the purpose of taking the liberty of acknowledging to you the very great pleasure I received from the highly honourable mark of respect which you have taken the occasion to express for the illustrious statesman from whose counsels that measure emanated.

I need not repeat to you, sir, what sincere satisfaction it would give me if, without the sacrifice of the essential rights and interests of Great Britain, all the points in discussion between our two countries could be finally adjusted.

I have the honour to be, &c.

(*Signed*) AUG. J. FOSTER.

To the Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, OCT. 29, 1811.

SIR,

I HAVE had the honour to receive your letter of the 22d of this month, and to lay it before the President.

The assurance which you have given of your disposition to reciprocate, in our communications on the important subjects depending between our governments, the respectful attention which each has a right to claim, and that no departure from it was intended in your letter of the 26th July, has been received with the satisfaction due to the frank and conciliatory spirit in which it was made.

I learn, however, with much regret, that you have received no instructions from your government, founded on the new proof of the revocation of the Berlin and Milan decrees, which was communicated to the marquis of Wellesly, by the American charge d'affaires at London, in a document of which I had the honour to transmit to you a copy. It might fairly have been presumed, as I have before observed, that the evidence afforded by that document, of the complete revocation of those decrees, so far as they interfered with the commerce of the United States with the British dominions, would have been followed by an immediate repeal of the orders in council. From the reply of the marquis of Wellesley, it was at least to have been expected that no time had been lost in transmitting that document to you, and that the instructions accompanying it would have manifested a change in the sentiments of your government on the subject. The regret, therefore, cannot but be increased, in finding that the communication, which I had the honour to make to you, has not even had the effect of suspending your efforts to vindicate the perseverance of your government in enforcing those orders.

I regret also to observe, that the light in which you have viewed this document, and the remarks which you have made on the subject generally, seem to preclude any other view of the conditions on which those orders are to

be revoked, than those that were furnished by your former communications. You still adhere to the pretension that the productions and manufactures of Great Britain, when neutralized, must be admitted into the ports of your enemies. This pretension, however vague the language heretofore held by your government, particularly by the marquis of Wellesley in his communications with Mr. Pinkney on the subject, was never understood to have been embraced. Nothing, indeed, short of the specifick declarations which you have made, would have induced a belief that such was the case.

I have the honour to be, &c. &c.

(*Signed*) JAS. MONROE.

Augustus J. Foster, Esq. &c. &c. &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, OCT. 31, 1811.

SIR,

I DID not reply at great length to the observations contained in your letter of the 1st instant, on the pretensions of Great Britain as relative to the French system, because you seemed to me to have argued as if but a part of the system continued, and even that part had ceased to be considered as a measure of war against Great Britain. For me to have allowed this, would have been at once to allow in the face of facts that the decrees of France were repealed, and that her unprecedented measures, avowedly pursued in defiance of the laws of nations, were become mere ordinary regulations of trade. I therefore thought fit to confine my answer to your remarks, to a general statement of the sum of the demands of Great Britain, which was, that France should, by effectually revoking her decrees, revert to the usual method of carrying on war as practised in civilized Europe.

The pretension of France to prohibit all commerce in articles of British origin, in every part of the continent, is one among the many violent innovations which are contained in the decrees, and which are preceded by the dec-

laration of their being founded on a determination of the ruler of France, as he himself avowed, to revert to the principles which characterized the barbarism of the dark ages, and to forget all ideas of justice and even the common feelings of humanity in the new method of carrying on war adopted by him.

It is not, however, a question with Great Britain of mere commercial interest, as you seem to suppose, which is involved in the attempt by Bonaparte to blockade her both by sea and land, but one of feeling and of national honour, contending as we do against the principles which he professes in his new system of warfare. It is impossible for us to submit to the doctrine that he has a right to compel the whole continent to break off all intercourse with us, and to seize upon vessels belonging to neutral nations, upon the sole plea of their having visited an English port, or of their being laden with articles of British or colonial produce, in whatsoever manner acquired.

This pretension, however, is but a part of that system, the whole of which, under our construction of the letter of M. Champagny of August 5, 1810, corroborated by many subsequent declarations of the French government, and not invalidated by any unequivocal declaration of a contrary tenour, must be considered as still in full force.

In the communication which you lately transmitted to me, I am sorry to repeat that I was unable to discover any facts which satisfactorily proved that the decrees had been actually repealed, and I have already repeatedly stated the reasons which too probably led to the restoration of a few of the American ships taken in pursuance of the Berlin and Milan decrees after November 1. Mr. Russell does not seem to deny that the decrees may still be kept in force, only he thinks they have assumed a municipal character; but in M. Champagny's declaration, ambiguous as it was, there is no such division of them into two different characters; for if the contingency required by the French minister took place, the Berlin and Milan decrees were to cease, according to his expression, without any qualifica-

tion. If therefore a part of them remain, or be revived again, as seems to be allowed even here, why may not the whole be equally so? Where proof can be obtained of their existence we have it, namely; in the ports of France in which vessels have been avowedly seized under their operation since November 1. Of their maritime existence we cannot so easily obtain evidence, because of the few French ships of war which venture to leave their harbours. Who can doubt, however, but that, had the ruler of France a navy at his command equal to the enforcing of his violent decrees, he would soon show that part of them to be no dead letter. The principle is not the less obnoxious because it is from necessity almost dormant for the moment nor ought it therefore to be less an object to be strenuously resisted.

Allow me, sir, here to express my sincere regret that I have not as yet been able to convince you, by what I cannot but consider the strongest evidence, of the continued existence of the French decrees, and consequently of the unfriendly policy of your government in enforcing the non-importation against us and opening the trade with our enemies. His royal highness will, I am convinced, learn with unfeigned sorrow, that such continues to be still the determination of America, and whatever restrictions on the commerce enjoyed by America in his majesty's dominions may ensue on the part of Great Britain, as retaliatory on the refusal by your government to admit the productions of Great Britain while they open their harbours to those of his majesty's enemies, they will, I am persuaded, be adopted with sincere pain, and with pleasure relinquished whenever this country shall resume her neutral position and impartial attitude between the two belligerents.

I have the honour to be, &c. &c. &c.

(*Signed*) AUG. J. FOSTER.

The Hon. James Monroe, &c.

CORRESPONDENCE RELATIVE TO THE BRITISH SLOOP OF WAR LITTLE BELT.

From Mr. Morier to Mr. Monroe.

BALTIMORE, JUNE 26, 1811.

SIR,

I HAVE the honour to enclose an official letter addressed to rear-admiral Sawyer by captain Bingham, commanding his majesty's sloop the Little Belt, which contains an account of the late engagement between that ship and the American frigate the President.

In thus communicating to you without orders from his majesty's government this document, which in the most essential fact differs so materially from that of commodore Rodgers, I trust that this government will receive it as a proof of the sincere desire which exists with me, to open the way to an amicable arrangement of the question which may arise out of this unfortunate affair, when it shall be known to his majesty's government.

I have the honour to be, &c. &c.

(*Signed*) J. P. MORIER.

The Hon. JAMES MONROE, &c. &c.

Mr. Monroe to Mr. Morier.

DEPARTMENT OF STATE, JUNE 28, 1811.

SIR,

I HAD the honour to receive yesterday your letter of the 26th inst. communicating a statement from captain Bingham to admiral Sawyer, of the circumstances attending the late unfortunate encounter between the United States frigate the President, and his Britannic majesty's sloop the Little Belt.

It is to be regretted that the statement made by captain Bingham should have varied in any circumstance from that made by the commander of the American frigate. I flatter myself, with the disposition of the President, which I am authorized to express, to make it the subject of mu-

tual and friendly explanations, that its disagreeable tendency will be obviated. I am induced to express this expectation with the more confidence, from the conciliatory manner in which you have made this communication.

I have the honour to be, &c.

(*Signed*) JAMES MONROE.

Mr. Morier,
Charge d'Affaires of his Britannic majesty.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 3, 1811.

SIR,

The assurances which you did me the honour to give me yesterday verbally, that no instructions whatever had been given to commodore Rodgers which could, under any construction, be meant to authorize his attempting to recover by force any person claimed as an impressed American citizen from on board any of his majesty's ships of war, were amply sufficient to convey to my mind every satisfaction upon that subject. The reports, however, current in the United States, and connected with commodore Rodgers' conduct and proceedings, as well as the inferences which will be drawn from the expressions which he used to the captain of his majesty's sloop Little Belt, being of a tendency to create doubts in Great Britain, as to the nature of the authority under which he acted, I willingly accept your offer of making me the same statement, in a more formal manner, in order that I may transmit it to my government, to prevent all possible mistake on so important a point.

The question arising out of the rencounter between the United States' frigate President and his majesty's sloop Little Belt, will then remain limited to the act itself. You are already, sir, in possession of the British commander's statement of the circumstances which attended it; his account and that of the American commodore differ very materially with respect to some of the most important features of the transaction; but in this they agree, that the chase which brought on the action commenced on the part

of commodore Rodgers; for it cannot be maintained that the advance made by captain Bingham for the purpose of ascertaining if the sail descried by him was his majesty's ship Gurriere, which it appears he had orders to join, was for the purpose of chasing, even if that could be urged as a plea by the American commander. As soon as he found his signals unanswered, he bore away, until, to his infinite surprise, he found himself the object of the strange vessel's eager pursuit and hostile attitudes. What could be commodore Rodgers' intention is not apparent. That he could not discover at the distance of seventy or one hundred yards that the ship before him was a flush deck sloop, though it was but a little after eight o'clock on the 16th of May; that he could not make out her colours at half past six o'clock; that his guns were double shotted, and that with the security he possessed from the great force and superiour sailing of the ship under his command, and the circumstance of belonging to a neutral nation, he did not rather hold off during the night if he wished to speak the sloop, than by running under her stern in a menacing attitude, incur the risk of provoking a misunderstanding, must appear unaccountable to the comprehension of every unprejudiced person, and will, I am sure, sir, seem to you a sufficient reason, if there were no other, to warrant my demanding that an examination be instituted into his conduct, with a view to suitable satisfaction being afforded to his majesty for the loss of so many of his subjects so wantonly slaughtered, and for the insult offered to his flag. But should captain Bingham's charges be brought home to commodore Rodgers of his having refused to state the name of the nation he belonged to, though asked to do so on their nearing each other in the dark, and of having fired a broadside into the sloop without provocation, which might at once have sunk so small a vessel, I am convinced I need only appeal to the justice of the American government, for that government to see in its proper light the magnitude of the outrage, and offer to his majesty every reparation that can appear due.

It is with great pleasure, sir, that I avail myself of this opportunity to acknowledge the promptness with which you came forward with the assurances alluded to in the first part of this letter, and the readiness which you showed to receive any communications from me in regard to the unhappy occurrence which forms the subject of the remainder. I have the honour to be, &c.

(*Signed*) AUG. J. FOSTER.

Hon. James Monroe, &c. &c. &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, JULY 16, 1811.

SIR,

I HAVE had the honour to receive your note respecting the late encounter between the American frigate the President, and his Britannic majesty's sloop of war the Little Belt.

It is very satisfactory to find that you received the communication which I had the honour to make to you, in our first interview, on the subject of your inquiry, relative to that unfortunate occurrence, in the amicable spirit in which it was intended. Although the excitement, which had been produced by previous and recent aggressions, particularly by the impressment of American citizens from American vessels, even on the coast of the United States, was great, yet no order had been given by the government for the recovery by force of any citizens so impressed, from any British ship of war. The orders given to the commanders of the frigates, and other armed vessels of the United States, were for the protection of their coast, and of their commerce within the legitimate limits.

I need not repeat to you, sir, the sincere regret of this government, that such an encounter took place, and more especially that it should have produced the unfortunate consequences which attended it.

I have the honour to be, &c.

(*Signed*) JAS. MONROE.

Augustus J. Foster, Esq. &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 24, 1811.

SIR,

I HAVE had the honour to receive your letter dated on the 16th instant, in answer to mine of the 3d, in which I expressed a desire to have stated, in a more formal manner, your denial to me of orders having been given to commodore Rodgers, which could, under any construction, authorize that commander to attack any of his majesty's ships of war in search of any person claimed as an American seaman, and in which I also demanded that an examination should be instituted into that officer's conduct, with a view to suitable reparation being afforded to his majesty, for what appears a wanton and unprovoked attack made by the frigate under his command upon his majesty's sloop of war the Little Belt.

The denial I asked for you have given me, and I beg to assure you, sir, that though I troubled you with the demand, because the extensiveness of the rumour, which had attributed such orders to the American government, had made it my duty so to do, yet I never entertained an idea for one moment, that the government of the United States could have issued such orders, because they must have been considered as manifestations of direct intentions of hostility, which would have been incompatible with the relations of amity subsisting between America and Great Britain.

On such a point, sir, a simple denial was all I asked and what I expected to receive. It was therefore with pain that I found you had connected it with allusions to other topicks, calculated to produce irritation, on which whatever complaints you may have to make to me, I shall be ever ready to receive and forward them for redress to the commander in chief of his majesty's naval forces at Halifax, or to his majesty's government; but the mentioning of which, in your note in answer to mine on a distinct subject

of the most serious importance, you will pardon me if I must consider as matter of regret, especially as you wished me to receive the communication you made me, as given in an amicable spirit.

Moreover, from the tenour of the part of your letter in which you have connected the question of impressment with that of an attack on a British ship of war, an inference is forced upon me, which you surely never could have meant me to draw, but which, nevertheless, the passage conveys, namely—that *although* the government of the United States had not given orders for the recovery by force of any American citizen claimed from a British national ship, they still maintain they might have been justified in so doing. The right of searching a ship of war has been so positively disavowed on the part of his majesty's government, and so disclaimed by that of America, that I could not have expected any doubts would ever again have been thrown on the matter, and yet the language of your letter, until it is explained, will certainly authorize such doubts as far as relates to the American government.

I have no answer at all from you, sir, to my demand for an inquiry being instituted into the conduct of captain Rodgers. This omission has occasioned to me the more surprise, because in addition to there appearing to be no cause why the government of America should decline to listen to so just a demand on my part, there seemed to be every reason why they should, even for their own satisfaction, have desired to clear up the circumstances of his most extraordinary proceeding. I will indeed frankly own to you, that I did think, on reaching this city, to have found that officer's conduct already, by the spontaneous act of the government of the United States, undergoing an examination, instead of hearing that he had been sent immediately to sea again, which seemed to denote an approbation of his behaviour; and I thought I could the more rely on this being the course the President would have pursued, from a consideration of that which his majesty's government had taken in the case of the Chesapeake, when every

reparation practicable, at the instant the intelligence reached London of that unfortunate event, was made to you, sir, promptly and unasked for.

I feel the more regret, sir, at the course taken by your government in this affair, because I have been necessarily obliged, in consequence, to suspend carrying into execution that part of my instructions by which I was directed, immediately on my arrival here, to offer such further reparation for the attack on the Chesapeake frigate, as would, I am convinced, have proved satisfactory. I had the honour to state to you in our first interview, that I had such instructions, although I omitted to mention it in my note, because, as you may remember I expressed to you at the time, it seemed to me the American government might feel more free to act, as the justice of the case required, if the two subjects were kept unconnected; and in this opinion I thought you appeared to concur.

I have the honour to be, &c.

(*Signed*) AUG. J. FOSTER.

To the Hon. James Monroe, Secretary of State.

Mr. Foster to Mr. Monroe.

PHILADELPHIA, SEPT. 4, 1811.

SIR,

I HAVE now, by an express messenger from England, received the commands of his royal highness, the prince regent, acting in the name and on the behalf of his majesty, relative to the late violent aggression committed by the United States frigate, the President, on his majesty's ship Little Belt, and I have the honour of communicating to you the enclosed documents, which have been transmitted to me by my government to be laid before that of the United States, comprehending a copy of a letter from lord James Townshend, commanding officer at Halifax, dated May 30, 1811, (1); enclosing a statement of the action by the officers of the Little Belt, (2); the report of the commissioner of his majesty's navy board at Halifax, in respect

to the damage done the Little Belt, (3); a copy of rear admiral Sawyer's letter, (4); enclosing his instructions to capt. Bingham, (5); as well as a list of killed and wounded on board the sloop of war, (6); and, finally, a copy of the correspondence on the subject which took place between the marquis Wellesley and Mr. Smith, American charge d'affaires in London, (7—8): of that of captain Bingham's official letter you are already in possession.

In communicating to you, sir, the documents, I am particularly directed to call your attention to the instructions of admiral Sawyer, which furnish the strongest evidence of the pacifick and friendly intentions of his majesty's government towards this country. The very pointed manner in which the commander in chief on the Halifax station had enjoined captain Bingham to avoid giving offence to the government or subjects of the United States, is of itself presumptive proof of the truth of that officer's statement, even if there were not such strong evidence as appears from the deposition of the different officers on board his majesty's ship as to the action having been commenced by captain Rodgers.

His majesty's government were entitled to expect, as I have had already the honour to observe to you, sir, in my former letter, that the American government would have manifested a prompt disposition to obviate, by an early disavowal and by just reparation, the necessary tendency of such an event to disturb the friendship subsisting between the two states, and this expectation was the more natural from the example afforded by his majesty's government in the case of the Chesapeake.

Such, however, not having been the case, I am commanded by his royal highness to lose no time in communicating to you the papers enclosed, which explain in the fullest manner the circumstances of the transaction, and the very great extent of the outrage committed, by which so many valuable lives were sacrificed, and in demanding the immediate disavowal, on the part of the United States, of the act of aggression committed against his majesty's

ship, as also in requiring a just reparation of the injury received. I have the honour, &c. &c.

(*Signed*) AUG. J. FOSTER.

Hon. James Monroe, &c. &c.

No. 1.

Lord J. Townshend to Mr. Croker.

H. M. SHIP ÆOLUS, HALIFAX HARBOUR, MAY 30, 1811.

SIR,

As it may be of material consequence that his majesty's government should have the earliest information of a circumstance that has taken place on this coast, I have forwarded, and request you will lay before my lords commissioners of the admiralty, the copy of a letter which captain Bingham of his majesty's sloop Little Belt has sent to rear admiral Sawyer, recounting a severe action which took place on the evening of the 16th instant, between that ship and the United States' frigate President.

After having considered the whole circumstance, and judging it advisable to procure the strongest documents in my power for their lordships' information, (the commander in chief not having returned from Bermuda) I have caused depositions to be taken of all the commissioned officers of the Little Belt, respecting the unpleasant business, which I herewith enclose. I am, sir, &c. &c. &c.

(*Signed*) J. TOWNSHEND.

To J. W. Croker, Esq. Admiralty.

No. 2.

Statement of the officers of his majesty's sloop the Little Belt.

The officers of his majesty's sloop Little Belt statement of the action between that sloop and the United States' frigate President, on the evening of the 16th instant; taken before the right honourable lord James Townshend, captain of his majesty's ship Æolus, and senior officer at Hali-

fax, Nova Scotia, Charles John Austin, Esq. captain of his majesty's ship Cleopatra, and Alexander Gordon, Esq. commander of his majesty's sloop Rattler.

Lieutenant Moberly, senior lieutenant, states, that on the 16th instant, while cruising off the coast of America, cape Charles bearing west 54 miles, at 11 A.M. saw a strange sail; that she was a lugger, was reported from the mast head, on the starboard beam; we then steering s. s. w. the wind aft or a little on the starboard quarter, on which took in our studding sails and hauled our wind for her on the starboard tack; shortly after, made her out to be a ship. At 2 30 P. M. having then made out the chase to be a frigate with a commodore's broad pendant flying, being then about six miles distance, and not having answered any of our signals, viz. 275, private signal, and our number, concluded her to be the American frigate United States; showed our colours and steered our course south, set studding sails; at 5 o'clock observed the frigate make all sail, and to keep more away for us; at 7 found she was gaining on us fast; captain Bingham then thinking it best to speak her before dark, shortened sail, and hove to, colours up, we then making out her stars in her broad pendant, beat to quarters and got all clear for action, a second time having beat, before, at 2 P. M. double shotted and double breached the guns; at 7 50 observed the frigate to have shortened sail to topsails, top-gallant sails and jib, and standing down as if with an intention of passing under our stern, wore twice to evade this: captain Bingham hailed, and was not answered; wore again; the frigate then hove to close to us on the larboard beam, captain Bingham hailed the ship ahoy, which was repeated word for word by the frigate; captain Bingham asked what ship that was, which was also repeated as before, and on asking a second time was answered by a broadside; captain Bingham was then standing on the midship gun, jumped off and gave orders to fire, which was done in less than a minute after her first fire, we being quite ready, guns pointed, and continued firing for about an hour, when the frigate ceased firing, and

hailed us to know what ship this was; captain Bingham answered his majesty's ship Little Belt several times before he understood us; he then asked if our colours were down. No, was captain Bingham's answer; captain Bingham then hailed to know what ship that was, and was answered, the United States' frigate, the name we could not understand; in the mean time the frigate had filled and was standing from us; a short time after lost sight of her, hove to for the night, having no sail to set. At day light saw a sail to windward, made her out to be the same ship we had engaged; at six she bore up for us under easy sail; at eight she passed within hail, asked permission to send a boat on board, which was granted; boat came on board, staid ten minutes, then returned; understood the frigate to be the President, belonging to the United States, commodore Rodgers; observed the President to fill, and stand on the starboard tack under her topsails.

Lieutenant Thomas Levell states, that on May 16, 1811, at 11 A. M. saw a strange sail from the mast head, which was reported to be a lugger, having her main top gallant sail handed, fore and mizen set; we were then going nearly before the wind, turned the hands up, took in studding sails, and made sail in chase on the starboard tack; at 1 30 observed her to be a frigate, made the private signal, our number also, 275, neither of which she answered; observing her to have a blue broad pendant at her mast head; at 2 wore ship, and steered our course south, hoisted our colours, observed her to be in chase of us, supposed her to be an American frigate, cleared ship for action. At 5 beat to quarters a second time, double shotted the guns, and double breached those that were bad. At 7 30 shortened sail and hove to, as she was coming up with us very fast, hoisted our colours, observed the stars in his broad pendant, wore ship three or four times to prevent his passing under our stern which he evidently intended. At 8 hailed her when on the starboard beam, but received no answer; wore ship. At 8 10 she hauled her foresail up, and hove to within half pistol shot of our weather

beam. Captain Bingham standing on the gun abaft the larboard gangway, hailed the ship ahoy! which words were repeated. Captain Bingham hailed again, what ship is that? which was again also repeated word for word, and she immediately fired a broadside; captain Bingham jumped off the gun and gave orders to fire, which we did instantly, the captains of the guns standing with the lanyards of the locks in their hands, and the guns pointed at her, continued firing about an hour, when she ceased and hailed us, what ship is that? Captain Bingham replied, his majesty's ship Little Belt several times before he understood us; he then asked what ship that was? They answered the United States' frigate, the name we did not understand, and asked if our colours were down? Captain Bingham answered no! He then filled on the starboard tack, we very soon lost sight of her; continued all night refitting; at day light observed her laying to, to windward, about 8 or 10 miles. About 6 she bore down under her topsails and foresail. At 8 he hailed ship ahoy! I'll send a boat on board if you please, sir. Very well, sir, was captain Bingham's answer. The boat came on board, and remained about ten minutes, or a quarter of an hour; after which he wore, and stood to the westward under his topsails.

Latitude 36 53, longitude 71 49. Cape Charles bearing west 50 miles.

Mr. James Franklin, boatswain, states, at half past 6 o'clock observed the frigate coming up under studding-sails on both sides; about half past 7 shortened sail and brought to, hoisted the colours; at a quarter before 8 hailed, no answer, wore ship; about two minutes before 8 the ship was hailed; the captain's words were repeated twice, without making any answer; then he fired a whole broadside; about a minute returned a broadside from us, continued firing for about an hour, and then he ceased firing and hailed, and asked what ship this was, and he was answered by the captain the Little Belt, and he then asked if the colours were down, the answer was, No, and

I heard the captain say they should not come down, and ordered the starboard guns to be manned; then the captain hailed to know what ship that was; being under the forecastle, wounded, I could not hear the answer. I then came down below, and there was no more firing after.

Mr. Hinshelwood, purser, states, that on the 16th inst. at 11 A. M. saw a strange sail, made sail in chase of her; 1 30 observed her to be a frigate, made the private signal, our number and 275, neither of which were answered; at 2, made out a commodore's broad pendant, apparently an American, cleared for quarters, observed the frigate to be in chase of us; at 5, beat to quarters a second time; 7 30, hove to and hoisted our colours; at 8, hailed her, no answer, wore ship; at 8 10, she hove to, close to windward of us; captain Bingham standing on the gun abaft the larboard gangway, hailed, Ahoy! the ship, which they repeated; capt. B. asked, What ship is that? which was also repeated, and immediately gave us a broadside, commencing firing from the midships of the deck; captain B. jumped off the gun and gave orders to fire, which was instantly done; continued firing about an hour, observed the frigate to leave off firing; she hailed at the same time, and asked what ship this was; captain B. answered, His Britannic majesty's ship Little Belt, six or seven times before they understood; he then asked if our colours were down, to which capt. B. answered, No, and asked what ship that was; she answered, the United States' ship, the name we could not understand; she then made sail; at day-light, observed her to windward; at 6 she bore down, at 8 passed within hail, hailed the ship, and said he would send a boat on board, if capt. B. pleased; a boat came on board, and remained about a quarter of an hour; she then made sail to the westward.

Mr. William Turner, surgeon, states, that when steering to the southward from off New York, on May 16th, 1811, at 11 A. M. a strange sail was reported to the westward, which was immediately given chase to; on nearing, observed her to be a frigate, standing to the eastward, with an American broad pendant at her main-top-gallant-mast-

head. We then resumed our course to the southward, and showed the ensign and pendant; stranger observed shortly after to alter her course to join us; when the Little Belt made more sail, strange frigate did the same; finding the stranger joined us fast, prepared for action, shortened sail and hove to, sometime before sunset. Immediately after the Little Belt hove to, the strange frigate shortened sail, coming down very slowly. I shortly after went below. At 10 minutes past 8 o'clock P. M. captain Bingham hailed the stranger twice, very loudly, but received no answer; about 5 minutes after, captain B. again hailed, and was answered from the frigate, to what purport I could not distinctly understand; captain B. again hailed twice, and immediately heard the firigate fire, and the whole passed over us. I then distinctly heard captain B. give orders to fire away; we returned our broadside within the space of 20 seconds. The action continued with great vigour for about 45 minutes, to the best of my judgment.

We, the undersigned, have duly examined the officers herein named, belonging to his majesty's sloop Little Belt, respecting the attack made on that ship by the United States' frigate President, have received the above as a true statement of all the occurrences.

In witness whereof we have hereunto set our hands, on board his majesty's ship Æolus, Halifax harbour, Nova Scotia, the 29th of May, 1811.

(*Signed*) J. TOWNSHEND,
CHARLES JNO. AUSTIN,
ALEXR. GORDON.

No. 3.

Commissioner Inglefield to the Navy Board.

HALIFAX YARD, MAY 30, 1811.

GENTLEMEN,

I ACQUAINT the board that his majesty's sloop the Little Belt, returned to this port on Sunday last, almost a wreck, having on the 16th instant, off the Chesapeake, had

an action, which lasted three quarters of an hour, with the American frigate the President, one of their heaviest ships, carrying upwards of fifty guns.

Having directed the master shipwright to examine her defects, I received from him the report which is herewith enclosed for the information of the board, and for the satisfaction of the lords commissioners of the admiralty, in ascertaining the extent of the injury received.

In addition to the damages detailed in the builders report, her sails and rigging are cut to pieces by shot.

I have the honour to be, &c.

(*Signed*) J. N. INGLEFIELD.

To the honourable the Navy Board.

Enclosure in commissioner Inglefield's Letter to the Navy Board.

HALIFAX YARD, MAY 28, 1811.

Report of the state and condition of his majesty's sloop Little Belt.

THE short plank abaft the after port, with top timbers, spirketting and quick work above the spirketting of the larboard side much damaged by shot.

The strings and sheer strakes of each side, shot away in midships, and abreast of the fore channels of the larboard side.

The gun wales, and part of the hammock stantion boards and rails in midships shot away.

Several of the fore and main chains and bolts of ditto, shot away.

The top timbers and strings in the way of the fore channel, and iron standards and larboard main bitt, shot away.

Several of the port timbers and lower hanging ports of the larboard side, much damaged by shot.

Part of the water ways, spirketting, and oak work of the upper deck, and timbers in the way of ditto, much damaged by the shot.

Part of the wales of the larboard side and plank of the top sides much damaged by shot.

A number of shot holes at load water mark and below ditto.

Part of the copper damaged.

The midship port timber damaged.

One beam and several planks of the poop deck much damaged by shot.

One pump between decks shot through.

The plank under the clamps much damaged.

Gun room and cabin sky lights much damaged.

One bumkin wanted.

Cabins in want of repair.

New tin work in the galley wanted.

Two planks in the upper deck decayed and want shifting.

Several shot racks wanting.

Bowsprit shot through in the wake of the gammoning.

Foremast shot through in two places.

Mainmast ditto.

Mizzen mast shot through above the cap.

Mizzen top gallant mast shot away.

Fore yard damaged by shot on the larboard quarter.

Cross jack-yard damaged by shot.

Drives boom decayed.

Main top sail yard damaged by shot.

One main topmast,
One fore topmast,
One fore topsail yard,
One fore top gallant mast,
One mizzen top gallant mast,
One main topsail yard,
Spare spars on the booms,
Also several others,
} All damaged and shattered by the shot.

A swinging boom wanted.

The jolly boat and launch much damaged by the shot.

(*Signed*) WM. HUGHES, *Master shipwright.*
J. PARRYIE, *Foreman do.*

No. 4.

Copy of a Letter from Rear Admiral Sawyer to J. W. Croker, Esq.

H. M. SHIP AFRICA, AT BERMUDA, JUNE 11, 1811.

SIR,

ENCLOSED I transmit to you, for the information of the lords commissioners of the admiralty, a copy of a letter from captain Arthur Batt Bingham, commander of his majesty's sloop Little Belt, received this day from lord James Townshend, captain of his majesty's ship Æolus, and senior officer at Halifax, by which their lordships will perceive he was attacked on the evening of May 16th last, when cruising between cape Henry and Cape Hatteras, by the United States' frigate the President, of 44 guns, commanded by commodore Rodgers, and that after a close action of three quarters of an hour, the American ship made sail from him.

Captain Bingham's modest, but full and clear statement, renders any comment from me unnecessary; and I have only to admire the extraordinary bravery and firmness with which himself, his officers and ship's company, supported the honour of the British flag, when opposed to such an immense superiority of force. I have, however, deeply to lament the number of valuable British seamen and royal marines who have been killed or wounded on this unexpected occasion, a list of whose names is also enclosed, together with a copy of my order, under which captain Bingham was cruising.

I have the honour to be, &c.

(*Signed*) HERBERT SAWYER,
Rear Admiral.

J. W. CROKER, Esq.

No. 5.

Copy of Rear Admiral Sawyer's Instructions to captain Bingham, of his majesty's sloop Little Belt.

By Herbert Sawyer, Esq. rear admiral of the red, and commander in chief of his majesty's ships and vessels employed and to be employed in the river St. Lawrence, along the coast of Nova Scotia, the islands of Anticoste, Madeline, and St. John, and Cape Breton, the bay of Fundy, and at and about the island of Bermuda, or Somers' islands.

You are are hereby required and directed to put to sea in his majesty's sloop under your command, and proceed, without loss of time, off Charleston, where you may expect to meet captain Pechell, in the Guerriere, to whom you will deliver the packet you will herewith receive, and follow his orders for your further proceedings. Should you not meet the Guerriere off Charleston, you will stand to the northward, and use your utmost endeavours to join him off the capes of Virginia or off New York, and in the event of not meeting the Guerriere you will cruise as long as your provisions and water will last, and then repair to Halifax for further orders. You are to pay due regard to protecting the trade of his majesty's subjects, and the capture or destruction of the ships of the enemy. You are to be particularly careful not to give any just cause of offence to the government or subjects of the United States of America, and to give very particular orders to this effect to the officers you may have occasion to send on board ships under the American flag. You are not to anchor in any of the American ports, but in case of absolute necessity; and then put to sea again as soon as possible.

Given under my hand at Bermuda, this 19th of April, 1811.

(*Signed*) HERBERT SAWYER.

By command of the rear admiral.

(*Signed*) H. W. SOMERVILLE.

To Arthur Batt Bingham, *Esq.*
Commander of his majesty's sloop Little Belt.

No. 6.

Return of officers, petty officers, seamen and marines killed and wounded on board his majesty's Sloop Little Belt, Arthur Batt Bingham, Esq. commander, in action with the American frigate President, the 16th of May, 1811.

Killed—Mr. Samuel Woodward, midshipman, Charles Bennet, captain foretop, Jacob Greaves, carpenter's crew, Wm. Shippard, gunner's mate, George Wilson, able, Robert Liversage, able, Jas. Gray, ordinary, Rt. Harwood, ordinary, John Pardoe, private marine. *Dangerously wounded*—Danl. Killham, L. M. died ten hours after the action; Robert Coody, ordinary, John Randall, able, Nicholas Manager, gunner's crew, died 20 hours after the action. *Severely wounded*—Mr. J. M'Queen, acting master, Jas. Dunn, (2) captain main top, James Lawrence, able, John Richards, able, Thomas Ives, able, Michael Skinners, L. M., Wm. Fern, boy, David Dowd, marine, Wm. Harold, marine. *Slightly wounded*—Jas. Franklin, boatswain, Benj. Angel, carpenter, Peter M'Cashell, cap. mast, Wm. Andrews, ordinary, Wm. Western, boy, Edward Graham, able, George Dalany, able, George Roberts, boy, George Shoard, marine, Daniel Long, marine.

(*Signed*) A. B. BINGHAM, *Capt.*
WM. TURNER, *2d Surg.*

No. 7.

Lord Wellesley to Mr. J. S. Smith.

FOREIGN OFFICE, JULY 2, 1811.

SIR,

I AM commanded by his royal highness, the prince regent, to transmit to you the enclosed official documents, and to request that you will be pleased to furnish me with any explanation which you may have received from the government of the United States, of the transaction to which they refer. I have the honour to be, &c.

(*Signed*) WELLESLEY.

J. S. SMITH, Esq. &c.

No. 8.

Mr. J. S. Smith to the Marquis Wellesley.

BENTINCK STREET, JULY 3, 1811.

MY LORD,

I HAVE the honour to acknowledge the reception of the documents transmitted to me yesterday by your lordship, and in reply to the request that I should furnish an explanation of the transaction to which they refer, have to state that to this moment no information has been received by me from my government on this subject; but from the known justice of the United States, and their uniform desire to preserve harmony with Great Britain, his majesty's government can be assured that they will never be unwilling to repair any injury they are conscious of having committed. I have the honour to be, &c.

(*Signed*) J. S. SMITH.

The most noble the Marquis WELLESLEY.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, SEPT. 14, 1811.

SIR,

I HAVE had the honour to receive your letter of the 4th inst. respecting the encounter between the United States' frigate the President and his Britannic majesty's ship Little Belt, which I have laid before the President of the United States.

In the first interview which took place between us, after your arrival at Washington, I stated explicitly that no instruction had been given to take any seaman from on board a British ship of war, nor any order whatever of a hostile nature. I made the same declaration afterwards, at your request, in a more formal manner; and it is with the same frankness that I now again repeat it.

Such a declaration was deemed proper in order to obviate misapprehensions, which might obstruct any conciliatory and satisfactory propositions with which you might be charged. It was in conformity also with the candour

and friendly policy which have been shown by this government, in all its transactions with Great Britain.

If the answer to your former letter was limited to this disavowal, of hostile intentions on the part of this government, it need scarcely be remarked that no further view of the subject could then, nor as yet can, be entered into, on the demand of the British government, without forgetting an essential preliminary to such a demand.

It might be added, that with the circumstances of the transaction, as officially before this government, the true ground on which it claimed attention, was that of a violent aggression by a British on an American ship, in a situation and manner authorizing the strongest appeal to the British government for redress. If an instant representation and demand to that effect were not made, it was a proof only that this government permitted the event of the encounter to temper the feelings and retard the complaint, prompted by the origin and character of it.

It is not seen without surprise, that the case of the Chesapeake is cited as an example, supporting a demand of reparation, in the present case. No other remark will be made, than that the fifth year is now elapsing without reparation in that case, although so palpably and even confessedly due to the rights of the United States, and the honour of their flag.

In the instruction to captain Bingham thus frankly communicated, the President sees a token of amity and conciliation, which, if pursued in the extent corresponding with that in which these sentiments are entertained by the United States, must hasten a termination of every controversy which has so long subsisted between the two countries. I have the honour to be, &c.

(*Signed*) JAS. MONROE.

Augustus J. Foster, Esq. &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, OCT. 11, 1811.

SIR,

I HAVE the honour to transmit to you a copy of the proceedings of a court of inquiry, held by order of the President, on the conduct of commodore Rodgers, in the late encounter between a frigate of the United States, the President, and his Britannic majesty's ship the Little Belt.

The result of this inquiry, which was conducted in publick, in a manner the most fair and impartial, and established by the concurrent testimony of all the officers of the American ship, and of others whom it was proper to summon, cannot, it is presumed, leave a doubt in the mind of any one that captain Bingham made the attack, and without a justifiable cause.

That commodore Rodgers pursued a vessel which had at first pursued him, and hailed her as soon as he approached within a suitable distance, are circumstances which can be of no avail to captain Bingham. The United States have a right to know the national character of the armed ships which hover on their coast, and whether they visit it with friendly or illicit views. It is a right inseparable from the sovereignty of every independent state, and intimately connected with their tranquillity and peace. All nations exercise it, and none with more rigour, or at a greater distance from the coast, than Great Britain herself, nor any on more justifiable grounds than the United States. In addition to the considerations which have recommended this precaution to other powers, it is rendered of the more importance to the United States, by the practice of armed vessels from the West Indies, in visiting our coast for unauthorized and even piratical purposes. Instances have also occurred, in which the commanders of British ships of war, after impressing seamen from American vessels, have concealed their names, and the names of their ships, whereby an application to their government for the reparation due for such outrages, with the requisite

certainty, is rendered impracticable. For these reasons, the conduct of commodore Rodgers in approaching the Little Belt to make the necessary inquiries, and exchange a friendly salute, was strictly correct.

The President, therefore, can regard the act of captain Bingham no otherwise than as a hostile aggression on the flag of the United States, and he is persuaded that his Britannic majesty, viewing it in the same light, will bestow on it the attention which it merits.

I have the honour to be, &c.

(*Signed*) JAMES MONROE.

Augustus J. Foster, Esq. &c. &c. &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, OCT. 24, 1811.

SIR,

I HAVE had the honour to receive your letter of the 11th instant, enclosing a copy of the proceedings of a court of inquiry held by order of the President of the United States on the conduct of commodore Rodgers, in the late encounter between a frigate of the United States, the President, and his majesty's ship the Little Belt, fixing on captain Bingham the charge of having commenced the engagement, and claiming in consequence the attention of his majesty's government towards it, as to an act of hostility on the part of the British officer.

I may be permitted to remind you, sir, that after I had ascertained from you, that no hostile intentions on the part of the government of the United States were connected with the proceedings of captain Rodgers, all I asked in the first instance was, that the President of the United States would be pleased to order an inquiry into his conduct, which had tended so seriously to interrupt the harmony subsisting between our two countries, and which, having hitherto received no palliation whatever from any evidence in contradiction to captain Bingham's statement, as officially transmitted to his majesty's government, must have, continued to appear to them to be utterly incapable of receiving any.

The document you have now done me the honour to communicate to me, with the copy annexed of captain Rodgers' letter (for the first time officially before me,) is, however, so far satisfactory, as it shows that captain Rodgers has endeavoured to exculpate himself, exhibiting the ground on which he rests his defence, and I shall without delay transmit it to be laid before his royal highness the prince regent. It certainly proves a most unaccountable difference to exist between the statement of the commander and officers of the Little Belt, and those of the President, as to the firing of the first gun; but I must remark, that from the concurrent testimony of several of the officers of the United States' ship, as to the orders given by captain Rodgers on nearing the Little Belt, there appears to have been an impression on his mind, that an encounter was to ensue; and, as the Little Belt was evidently endeavouring to avoid him, such an idea, it would seem, could only have arisen from the opinion he entertained of his own proceedings as being likely to bring it on.

I take this occasion to acknowledge the receipt of your letter dated Sept. 14th, in answer to mine of the 2d, a copy of which I immediately forwarded to my government.

I have the honour to be, &c.

(*Signed*) AUGS. J. FOSTER.

Hon. James Monroe, &c. &c. &c.

CORRESPONDENCE RELATIVE TO THE FLORIDAS.

Mr. Foster to Mr. Monroe.

WASHINGTON, JULY 2, 1811.

SIR,

The attention of his majesty's government has of late been called to the measures pursued by the United States, for the military occupation of West Florida. The language held by the President, at the opening of the late session of

Congress, the hostile demonstrations made by the American forces under captain Gaines, the actual summoning of the fort of Mobile, and the bill submitted to the approbation of the American legislature, for the interiour administration of the province, are so many direct and positive proofs that the government of America is prepared to subject the province of West Florida to the authority of the United States.

The Spanish minister in London addressed a note, in the month of March last, to his majesty's secretary of state for foreign affairs, expressing in sufficient detail the feelings of the government of Spain, respecting this unprovoked aggression on the integrity of that monarchy.

Mr. Morier in his note to Mr. Smith of December 15, 1810, has already reminded the American government of the intimate alliance subsisting between his majesty and Spain, and he has desired such explanations on the subject, as might convince his majesty of the pacifick disposition of the United States towards Spain. Mr. Smith in his reply has stated, it was evident that no hostile or unfriendly purpose was entertained by America towards Spain; and that the American minister at his majesty's court, had been enabled to make whatever explanations might comport with the frank and conciliatory spirit which had been invariably manifested on the part of the United States.

Since the date of this correspondence Mr. Pinkney has offered no explanation whatever, of the motives which have actuated the conduct of the United States in this transaction; a bill has been introduced into Congress for the establishment, government, and protection of the territory of the Mobile, and the fortress of that name has been summoned without effect.

His royal highness, the prince regent, in the name and on the behalf of his majesty, is still willing to hope, that the American government has not been urged to this step by ambitious motives, or by a desire of foreign conquest, and territorial aggrandizement. It would be satisfactory, however, to be enabled to ascertain that no consideration,

connected with the present state of Spain, has induced America to despoil that monarchy of a valuable foreign colony.

The government of the United States contends that the right to the possession of a certain part of West Florida, will not be less open to discussion in the occupation of America, than under the government of Spain.

But the government of the United States, under this pretext, cannot expect to avoid the reproach, which must attend the ungenerous and unprovoked seizure of a foreign colony, while the parent state is engaged in a noble contest for independence, against a most unjustifiable and violent invasion of the rights both of the monarch and people of Spain.

While I wait, therefore, for an explanation from you, sir, as to the motives which led to this unjust aggression by the United States, on the territories of his majesty's ally, I must consider it as my duty to lose no time in fulfilling the orders of his royal highness, the prince regent, by which I am commanded, in the event of its appearing on my arrival in this city, that the United States still persevere by menaces and active demonstration to claim the military occupation of West Florida, notwithstanding the remonstrances of his majesty's charge d'affairs, and the manifest injustice of the act, to present to you the solemn protest of his royal highness, in the name and on the behalf of his majesty, against an attempt so contrary to every principle of publick justice, faith, and national honour, and so injurious to the alliance subsisting between his majesty and the Spanish nation.

I have the honour to be, &c. &c. &c.

(*Signed*) AUG. J. FOSTER.

The Hon. James Monroe, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, JULY 8, 1811.

SIR,

I HAVE had the honour to receive the note which you have presented, by the order of his royal highness the

prince regent, to protest, in behalf of the regency of Spain, against the possession lately taken, by the United States, of certain parts of West Florida.

Although the President cannot admit the right of Great Britain to interfere in any question relating to that province, he is willing to explain, in a friendly manner, the considerations which induced the United States to take the step, against which you have been ordered to protest.

It is to be inferred from your view of the subject, that the British government has been taught to believe, that the United States seized a moment of national embarrassment, to wrest from Spain a province to which they had no right, and that they were prompted to it by their interest alone, and a knowledge that Spain could not defend it. Nothing, however, is more remote from the fact, than the presumption on which your government appears to have acted. Examples of so unworthy a conduct, are unfortunately too frequent in the history of nations; but the United States have not followed them. The President had persuaded himself that the unequivocal proofs which the United States have given, in all their transactions with foreign powers, and particularly with Spain, of an upright and liberal policy, would have shielded them from so unmerited a suspicion. He is satisfied that nothing is wanting but a correct knowledge of facts, completely to dissipate it.

I might bring to your view a long catalogue of injuries, which the United States have received from Spain, since the conclusion of their revolutionary war, any one of which would most probably have been considered cause of war, and resented as such, by other powers. I will mention two of these only; the spoliations that were committed on their commerce to a great amount in the last war, and the suppression of their deposit at New Orleans just before the commencement of the present war, in violation of a solemn treaty; for neither of which injuries has any reparation or atonement been made. For injuries like those of the first class, it is known to you that Great

Britain and France made indemnity. The United States, however, do not rely on these injuries for a justification of their conduct in this transaction; although their claims to reparation for them are by no means relinquished, and, it is to be presumed, will not always be neglected.

When I inform you that the province of West Florida, to the Perdido, was a part of Louisiana, while the whole province formerly belonged to France; that although it was afterwards separated from the other part, yet that both parts were again re-united, in the hands of Spain, and by her re-conveyed to France, in which state the entire province of Louisiana was ceded to the United States in 1803; that in accepting the cession, and paying for the territory ceded, the United States understood and believed, that they paid for the country as far as the Perdido, as part of Louisiana; and that, on a conviction of their right, they included in their laws provisions adapted to the cession in that extent; it cannot fail to be a cause of surprise to the prince regent, that they did not proceed to take possession of the territory in question as soon as the treaty was ratified. There was nothing in the circumstances of Spain, at that time, that could have forbidden the measure. In denying the right of the United States to this territory, her government invited negotiation on that, and every other point, in contestation between the parties. The United States accepted the invitation, in the hope that it would secure an adjustment, and reparation for every injury which had been received, and lead to the restoration of perfect harmony between the two countries; but in that hope they were disappointed.

Since the year 1805, the period of the last negotiation with Spain, the province of West Florida has remained in a situation altogether incompatible with the welfare of these States. The government of Spain has scarcely been felt there; in consequence of which the affairs of that province had fallen into disorder. Of that circumstance, however, the United States took no advantage. It was not until the last year, when the inhabitants, perceiving that

all authority over them had ceased, rose in a body with intention to take the country into their own hands, that the American government interposed. It was impossible for the United States to behold, with indifference, a movement in which they were so deeply interested. The President would have incurred the censure of the nation, if he had suffered that province to be wrested from the United States, under a pretext of wresting it from Spain. In taking possession of it, in their name, and under their authority, except in the part which was occupied by the Spanish troops, who have not been disturbed, he defended the rights and secured the peace of the nation, and even consulted the honour of Spain herself. By this event the United States have acquired no new title to West Florida. They wanted none. In adjusting hereafter all the other points which remain to be adjusted with Spain, and which it is proposed to make the subject of amicable negotiation as soon as the government of Spain shall be settled, her claim to this territory may also be brought into view, and receive all the attention which is due to it.

Aware that this transaction might be misconceived and misrepresented, the President deemed it a proper subject of instruction to the ministers of the United States at foreign courts, to place it in a true light before them. Such an instruction was forwarded to Mr. Pinkney, their late minister plenipotentiary at London, who would have executed it, had not the termination of his mission prevented it. The President cannot doubt that the frank and candid explanation, which I have now given, by his order, of the considerations which indueed the United States to take possession of this country, will be perfectly satisfactory to his royal highness the prince regent.

With great respect and consideration, I have the honour to be, &c.

(*Signed*) JAS. MONROE.

Augustus J. Foster, Esq. &c. &c.

Mr. Foster to Mr. Monroe.

PHILADELPHIA, SEPT. 5, 1811.

SIR,

THE Chevalier d'Onis, who has been appointed minister from his catholic majesty to the United States, has written to inform me, that he understands by letters from the governour of East Florida, under date of the 14th ultimo, that governour Matthews, of the state of Georgia, was at that time at Newtown, St. Mary, on the frontiers of Florida, for the purpose of treating with the inhabitants of that province for its being delivered up to the United States' government; that he was with this view using every method of seduction to effect his purpose, offering to each white inhabitant who would side with him fifty acres of land and the guarantee of his religion and property; stipulating also that the American government would pay the debts of the Spanish government, whether due in pensions or otherwise; and that he would cause the officers and soldiers of the garrisons to be conveyed to such place as should be indicated, provided they did not rather choose to enter into the service of the United States.

M. D'Onis has done me the honour to communicate to me a note which he purposes transmitting to you, sir, in consequence of this detailed and most extraordinary intelligence; and considering the intimate alliance subsisting between Spain and Great Britain, as well as the circumstances under which he is placed in this country, he has urgently requested that I would accompany his representation with a letter on my part in support of it.

After the solemn asseverations which you gave me in the month of July, that no intentions hostile to the Spanish interests in Florida existed on the part of your government, I am wholly unable to suppose that general Matthews can have had orders from the President for the conduct which he is stated to be pursuing; but the measures he is said to be taking in corresponding with traitors, and in endeavouring by bribery and every art of seduction to in-

fuse a spirit of rebellion into the subjects of the king of Spain in those quarters, are such as to create the liveliest inquietude, and to call for the most early interference on the part of the government of the United States.

The government of the United States are well aware of the deep interest which his royal highness, the prince regent, takes in the security of Florida, for any attempt to occupy the eastern part of which by the United States, not even the slightest pretexts could be alleged, such as were brought forward in the endeavour to justify the aggression on West Florida.

I conceive it therefore to be my duty, sir, in consideration of the alliance subsisting between Spain and Great Britain, and the interests of his majesty's subjects in the West India islands, so deeply involved in the security of East Florida, as well as in pursuanee of the orders of my government in case of any attempt against that country, to lose no time in calling upon you for an explanation of the alarming steps which governour Matthews is stated to be taking for subverting the Spanish authority in that country, requesting to be informed by you upon what authority he can be acting, and what measures have been taken to put a stop to his proceedings.

I have the honour to be, &e.

(*Signed*) AUG. J. FOSTER.

The Hon. James Monroe, &c. &c.

Mr. Monroe to Mr. Foster.

NOVEMBER 2, 1811.

SIR,

I HAVE had the honour to reeeive your letter of September 5th, and to submit it to the view of the President.

The principles which have governed the United States in their measures relative to West Florida, have already been explained to you. With equal frankness I shall now communicate the part they have acted with respect to East Florida.

In the letter which I had the honour to address to you on the 8th of July, I stated the injuries which the United States had received from Spain since their revolutionary war, and particularly by spoliations on their commerce, in the last war to a great amount, and of the suppression of their right of deposit at New Orleans just before the commencement of the present war, for neither of which had reparation been made. A claim to indemnity for those injuries, is altogether unconnected with the question relating to West Florida, which was acquired by cession from France, in 1803.

The government of Spain has never denied the right of the United States to a just indemnity for spoliations on their commerce. In 1802, it explicitly admitted this right by entering into a convention, the subject of which was to adjust the amount of the claim, with a view to indemnity. The subsequent injury, by the suppression of the deposit of New Orleans, produced an important change in the relations between the parties, which has never been accommodated. The United States saw in that measure eminent cause of war; and, that war did not immediately follow it, cannot be considered in any other light than as a proof of their moderation and pacifick policy. The executive could not believe that the government of Spain would refuse to the United States the justice due for these accumulated injuries, when the subject should be brought solemnly before it by a special mission. It is known that an envoy extraordinary was sent to Madrid in 1805, on this subject, and that the mission did not accomplish the object intended by it.

It is proper to observe that in the negotiation with Spain, in 1805, the injuries complained of by the United States, of the first class, were again substantially admitted, to a certain extent, as was that also occasioned by the suppression of the deposit at New Orleans, although the Spanish government, by disclaiming the act, and imputing it to the intendant, sought to avoid the responsibility due from it; that to make indemnity to the United States for

injuries of every kind, a cession of the whole territory claimed by Spain eastward of the Mississippi, was made the subject of negotiation, and that the amount of the sum demanded for it, was the sole cause that a treaty was not then formed, and the territory added.

The United States have considered the government of Spain indebted to them a greater sum for the injuries above stated, than the province of East Florida can, by any fair standard between the parties, be estimated at. They have looked to this province for their indemnity, and with the greater reason, because the government of Spain itself has countenanced it. That they have suffered their just claims to remain so long unsatisfied, is a new and strong proof of their moderation, as it is of their respect for the disordered condition of that power. There is, however, a period beyond which those claims ought not to be neglected. It would be highly improper for the United States, in their respect for Spain, to forget what they owe to their own character, and to the rights of their injured citizens.

Under these circumstances it would be equally unjust and dishonourable in the United States to suffer East Florida to pass into the possession of any other power. Unjust, because they would thereby lose the only indemnity within their reach, for injuries which ought long since to have been redressed. Dishonourable, because in permitting another power to wrest from them that indemnity, their inactivity and acquiescence could only be imputed to unworthy motives. Situated as East Florida is, cut off from the other possessions of Spain, and surrounded in a great measure by the territory of the United States; and having also an important bearing on their commerce, no other power could think of taking possession of it, with other than hostile views to them. Nor could any other power take possession of it without endangering their prosperity and best interests.

The United States have not been ignorant or inattentive to what has been agitated in Europe at different periods since the commencement of the present war, in regard to

the Spanish provinces in this hemisphere; nor have they been unmindful of the consequences into which the disorder of Spain might lead in regard to the province in question, without due care to prevent it. They have been persuaded, that remissness on their part might invite the danger, if it had not already done it, which it is so much their interest and desire to prevent. Deeply impressed with these considerations, and anxious, while they acquitted themselves to the just claims of their constituents, to preserve friendship with other powers, the subject was brought before the Congress at its last session, when an act was passed, authorizing the executive to accept possession of East Florida from the local authorities, or to take it against the attempt of a foreign power to occupy it, holding it in either case subject to future and friendly negotiation. This act therefore evinces the just and amicable views by which the United States have been governed towards Spain, in the measure authorized by it. Our ministers at London and Paris were immediately apprized of the act, and instructed to communicate the purport of it to both governments, and to explain at the same time, in the most friendly manner, the motives which led to it. The President could not doubt that such an explanation would give all the satisfaction that was intended by it. By a late letter from the American charge des affaires at London, I observe that this explanation was made to your government in the month of last. That it was not sooner made was owing to the departure of the minister plenipotentiary of the United States before the instruction was received.

I am persuaded, sir, that you will see, in this view of the subject, very strong proof of the just and amicable disposition of the United States towards Spain, of which I treated in the conference to which you have alluded. The same disposition still exists; but it must be understood that it cannot be indulged longer than may comport with the safety, as well as with the rights and honour of the nation.

I have the honour to be, &c.

(*Signed*) JAS. MONROE.

Augustus J. Foster, Esq. &c.

CORRESPONDENCE BETWEEN MR. PINKNEY AND LORD WELLESLEY.

Mr. Pinkney to Mr. Smith.

LONDON, JAN. 17, 1811.

SIR,

I HAD the honour to receive on the 5th instant, while I was confined by a severe illness, your letter of the 15th of November, and as soon as I was able, prepared a note to lord Wellesley, in conformity with it.

On the 3d instant I had received a letter from lord Wellesley, bearing date the 29th ultimo, on the subjects of the orders in council and the British blockades, to which I was anxious to reply at the same time that I obeyed the orders of the President signified in your letter above mentioned. I prepared an answer accordingly, and sent it in with the other note and a note of the 15th, respecting two American schooners lately captured on their way to Bordeaux, for a breach of the orders in council. Copies of all these papers are enclosed.

My answer to lord Wellesley's letter was written under the pressure of indisposition, and the influence of more indignation than could well be suppressed. His letter proves, what scarcely required proof, that if the present government continues, we cannot be friends with England. I need not analyze it to you.

I am still so weak as to find it convenient to make this letter a short one, and will therefore only add that I have derived great satisfaction from your instructions of the 15th of November, and have determined to return to the United States in the Essex. She will go to L'Orient for Mr. Grayson, and then come to Cowes for me and my family. I calculate on sailing about the last of February.

The despatches by the Essex were delivered to me by lieutenant Rodgers on Sunday.

I have the honour, &c. &c.

(*Signed*) WM. PINKNEY.

The Hon. R. SMITH, &c.

*Lord Wellesley to Mr. Pinkney.**

FOREIGN OFFICE, DEC. 29, 1810.

SIR,

In acknowledging the receipt of your letter of the 10th instant, I must express my regret that you should have thought it necessary to introduce into that letter any topicks, which might tend to interrupt the conciliatory spirit, in which it is the sincere disposition of his majesty's government to conduct every negotiation with the government of the United States.

From an anxious desire to avoid all discussions of that tendency, I shall proceed without any further observation to communicate to you the view, which his majesty's government has taken of the principal question which formed the object of my inquiry, during our conference of the 5th inst. The letter of the French minister for foreign affairs to the American minister at Paris, of the 9th Aug. 1810, did not appear to his majesty's government, to contain such a notification of the repeal of the French decrees of Berlin and Milan, as could justify his majesty's government in repealing the British orders in council. That letter states "that the decrees of Berlin and Milan are revoked, and that from the first of November, 1810, they will cease to be in force, it being understood that in consequence of this declaration, the English shall revoke their orders in council, and renounce the new principles of blockade which they have attempted to establish." The purport of this declaration appeared to be that the repeal of the decrees of Berlin and Milan would take effect from the 1st of November, provided that Great Britain antecedently to that day, and in consequence of this declaration, should revoke the orders in council, and should renounce those principles of blockade, which the French government alleged to be new. A separate condition relating to America, seemed also to be contained in this declaration, by which America might understand, that the decrees of Ber-

* This letter was not received till January 3, 1811, at night.

lin and Milan would be actually repealed on the 1st of November, 1810, provided that America should resent any refusal of the British government to renounce the new principles of blockade, and to revoke the orders in council.

By your explanation it appears, that the American government understands the letter of the French minister as announcing an absolute repeal, on the first of November, 1810, of the French decrees of Berlin and Milan; which repeal, however, is not to continue in force unless the British government, within a reasonable time after the first of November, 1810, shall fulfil the two conditions stated distinctly in the letter of the French minister. Under this explanation, if nothing more had been required from Great Britain, for the purpose of securing the continuance of the repeal of the French decrees, than the repeal of our orders in council, I should not have hesitated to declare the perfect readiness of this government to fulfil that condition. On these terms, the British government has always been sincerely disposed to repeal the orders in council. It appears, however, not only by the letter of the French minister, but by your explanation, that the repeal of the orders in council will not satisfy either the French or the American government. The British government is further required, by the letter of the French minister, to renounce those principles of blockade which the French government alleges to be new. A reference to the terms of the Berlin decree will serve to explain the extent of this requisition. The Berlin decree states, that Great Britain "extends the right of blockade to commercial unfortified towns, and to ports, harbours, and mouths of rivers, which, according to the principles and practice of all civilized nations, is only applicable to fortified places." On the part of the American government, I understand you to require that Great Britain should revoke her order of blockade of May, 1806. Combining your requisition with that of the French minister, I must conclude, that America demands the revocation of that order of blockade as a practical instance of our renunciation of those principles

of blockade which are condemned by the French government. Those principles of blockade Great Britain has asserted to be ancient and established by the laws of maritime war, acknowledged by all civilized nations, and on which depend the most valuable rights and interests of this nation. If the Berlin and Milan decrees are to be considered as still in force, unless Great Britain shall renounce these established foundations of her maritime rights and interests, the period of time is not yet arrived, when the repeal of her orders in council can be claimed from her, either with reference to the promise of this government, or to the safety and honour of the nation. I trust that the justice of the American government will not consider, that France, by the repeal of her obnoxious decrees under such a condition, has placed the question in that state which can warrant America in enforcing the non-intercourse act against Great Britain and not against France. In reviewing the actual state of this question, America cannot fail to observe the situation in which the commerce of neutral nations has been placed by many recent acts of the French government; nor can America reasonably expect that the system of violence and injustice, now pursued by France with unremitted activity (while it serves to illustrate the true spirit of her intentions,) should not require some precautions of defence on the part of Great Britain.

Having thus stated my view of the several considerations, arising from the letter of the French minister, and from that with which you have honoured me; it remains only to express my solicitude that you should correct any interpretation of either which you may deem erroneous. If either by the terms of the original decree to which the French minister's letter refers, or by any other authentick document, you can prove that the decrees of Berlin and Milan are absolutely repealed, and that no further condition is required of Great Britain than the repeal of her orders in council, I shall receive any such information with most sincere satisfaction; desiring you to understand, that

the British government retains an anxious solicitude to revoke the *orders in council*, as soon as the Berlin and Milan decrees shall be effectually repealed without conditions injurious to the maritime rights and honour of the united kingdom.

I have the honour to be, with great respect and consideration, sir, your most obedient, and humble servant.

(*Signed*) WELLESLEY.

William Pinkney, Esq. &c.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, JAN. 14, 1811.

MY LORD,

I HAVE received the letter which you did me the honour to address to me on the 29th of last month, and will not fail to transmit a copy of it to my government. In the mean time I take the liberty to trouble you with the following reply, which a severe indisposition has prevented me from preparing sooner.

The first paragraph seems to make it proper for me to begin by saying, that the topicks, introduced into my letter of the 10th of December, were intimately connected with its principal subject, and fairly used to illustrate and explain it; and consequently that if they had not the good fortune to be acceptable to your lordship, the fault was not mine.

It was scarcely possible to speak with more moderation than my paper exhibits, of that portion of a long list of invasions of the rights of the United States, which it necessarily reviewed, and of the apparent reluctance of the British government to forbear those invasions in future. I do not know that I could more carefully have abstained from whatever might tend to disturb the spirit which your lordship ascribes to his majesty's government, if, instead of being utterly barren and unproductive, it had occasionally been visible in some practical result, in some concession either to friendship or to justice. It would not have

been very surprising, nor very culpable perhaps, if I had wholly forgotten to address myself to a spirit of conciliation, which had met the most equitable claims with steady and unceasing repulsion; which had yielded nothing that could be denied; and had answered complaints of injury by multiplying their causes. With this forgetfulness, however, I am not chargeable; for, against all the discouragements suggested by the past, I have acted still upon a presumption that the disposition to conciliate, so often professed, would finally be proved by some better evidence than a perseverance in oppressive novelties, as obviously incompatible with such a disposition in those who enforce them, as in those whose patience they continue to exercise.

Upon the commencement of the second paragraph, I must observe, that the forbearance which it announces might have afforded some gratification, if it had been followed by such admissions as my government is entitled to expect, instead of a further manifestation of that disregard of its demands, by which it has so long been wearied. It has never been my practice to seek discussions, of which the tendency is merely to irritate; but I beg your lordship to be assured, that I feel no desire to avoid them, whatever may be their tendency, when the rights of my country require to be vindicated against pretensions that deny, and conduct that infringes them.

If I comprehend the other parts of your lordship's letter, they declare in effect, that the British government will repeal nothing but the *orders in council*, and that it cannot at present repeal even them, because in the first place, the French government has required, in the letter of the duke of Cadore to general Armstrong, of the 5th of August, not only that Great Britain shall revoke those orders, but that she shall renounce certain principles of blockade (supposed to be explained in the preamble to the Berlin decree) which France alleges to be new; and, in the second place, because the American government has (as you conclude) demanded the revocation of the British order of blockade of May, 1806, *as a practical instance of that same renuncia-*

tion, or, in other words, has made itself a party, not openly indeed, but indirectly and covertly, to the entire requisition of France, as you understand that requisition.

It is certainly true that the American government has required, as indispensable in the view of its acts of intercourse and non-intercourse, the annulment of the British blockade of May, 1806; and further, that it has through me declared its confident expectation that other blockades of a similar character (including that of the island of Zealand) will be discontinued. But by what process of reasoning your lordship has arrived at the conclusion, that the government of the United States intended by this requisition to become the champion of the edict of Berlin, to fashion its principles by those of France while it affected to adhere to its own, and to act upon some partnership in doctrines, which it would fain induce you to acknowledge, but could not prevail upon itself to avow, I am not able to conjecture. The frank and honourable character of the American government justifies me in saying that, if it had meant to demand of Great Britain an abjuration of all such principles as the French government may think fit to disapprove, it would not have put your lordship to the trouble of discovering that meaning by the aid of combinations and inferences discountenanced by the language of its minister, but would have told you so in explicit terms. What I have to request of your lordship, therefore, is that you will take our views and principles from our own mouths, and that neither the Berlin decree, nor any other act of any foreign state, may be made to speak for us what we have not spoken for ourselves.

The principles of blockade which the American government professes, and upon the foundation of which it has repeatedly protested against the order of May, 1806, and the other kindred innovations of those extraordinary times, have already been so clearly explained to your lordship, in my letter of the 21st of September, that it is hardly possible to read that letter and misunderstand them. Recommended by the plainest considerations of universal equity,

you will find them supported with a strength of argument and a weight of authority, of which they scarcely stand in need, in the papers which will accompany this letter, or were transmitted in that of September. I will not recapitulate what I cannot improve; but I must avail myself of this opportunity to call your lordship's attention a second time, in a particular manner, to one of the papers to which my letter of September refers. I allude to the copy of an official note of the 12th of April, 1804, from Mr. Merry to Mr. Madison, respecting a pretended blockade of Martinique and Guadaloupe. No comment can add to the value of that manly and perspicuous exposition of the law of blockade, as made by England herself in maintenance of rules which have been respected and upheld in all seasons and on all occasions by the government of the United States. I will leave it, therefore, to your lordship's consideration, with only this remark, that, while that paper exists, it will be superfluous to seek in any *French* document for the opinions of the American government on the matter of it.

The steady fidelity of the government of the United States to its opinions on that interesting subject is known to every body. The same principles which are found in the letter of Mr. Madison to Mr. Thornton, of the 27th of October, 1803, already before you, were asserted in 1799, by the American minister at this court, in his correspondence with lord Grenville, respecting the blockade of some of the ports of Holland; were sanctioned in a letter of the 20th of September, 1800, from the secretary of state of the United States to Mr. King, of which an extract is enclosed; were insisted upon in repeated instructions to Mr. Monroe and the special mission of 1806; have been maintained by the United States against *others* as well as against England, as will appear by the enclosed copy of instructions, dated the 21st of October, 1801, from Mr. secretary Madison to Mr. Charles Pinckney, then American minister at Madrid; and finally, were adhered to by the United States, when belligerent, in the case of the blockade of Tripoli.

A few words will give a summary of those principles; and when recalled to your remembrance, I am not without hopes, that the strong grounds of law and right, on which they stand, will be as apparent to your lordship as they are to me.

It is by no means clear that it may not fairly be contended, on principle and early usage, that a maritime blockade is incomplete with regard to states at peace, unless the place which it would affect is invested by land as well as by sea. The United States, however, have called for the recognition of no such rule. They appear to have contented themselves with urging in substance, that ports not actually blockaded by a present, adequate, stationary force, employed by the power which attacks them, shall not be considered as shut to neutral trade in articles not contraband of war; that, though it is usual for a belligerent to give notice to neutral nations when he intends to institute a blockade, it is possible that he may not act upon his intention at all, or that he may execute it insufficiently, or that he may discontinue his blockade, of which it is not customary to give any notice; that consequently the presence of the blockading force, is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade at any given period, in like manner as the actual investment of a besieged place, is the evidence by which we decide whether the siege, which may be commenced, raised, re-commenced and raised again, is continued or not; that of course a mere notification to a neutral minister shall not be relied upon, as affecting, with knowledge of the actual existence of a blockade, either his government or its citizens; that a vessel cleared or bound to a blockaded port, shall not be considered as violating in any manner the blockade, unless, on her approach towards such port, she shall have been previously warned not to enter it; that this view of the law, in itself perfectly correct, is peculiarly important to nations, situated at a great distance from the belligerent parties, and therefore incapable of obtaining other than tardy information of the

actual state of their ports; that whole coasts and countries shall not be declared (for they can never be more than *declared*) to be in a state of blockade, and thus the right of blockade converted into the means of extinguishing the trade of neutral nations; and lastly, that every blockade shall be impartial in its operation, or, in other words, shall not open and shut for the convenience of the party that institutes it, and at the same time repel the commerce of the rest of the world, so as to become the odious instrument of an unjust monopoly, instead of a measure of honourable war.

These principles are too moderate and just to furnish any motive to the British government for hesitating to revoke its orders in council, and those analogous orders of blockade, which the United States expect to be recalled. It can hardly be doubted that Great Britain will ultimately accede to them in their fullest extent; but if that be a sanguine calculation (as I trust it is not) it is still incontrovertible that a disinclination at this moment to acknowledge them, can suggest no rational inducement for declining to repeal at once what *every* principle disowns, and what must be repealed at last.

With regard to the rules of blockades which the French government expects you to abandon, I do not take upon me to decide whether they are such as your lordship supposes them to be or not. Your view of them may be correct; but it may also be erroneous; and it is wholly immaterial to the case between the United States and Great Britain whether it be the one or the other.

As to such *British blockades* as the United States desire you to relinquish, you will not, I am sure, allege that it is any reason for adhering to *them* that *France* expects you to relinquish *others*. If our demands are suited to the measure of our own rights, and of your obligations as they respect those rights, you cannot think of founding a rejection of them upon any imputed exorbitance in the theories of the French government, for which we are not responsible, and with which we have no concern. If, when

you have done justice to the United States, your enemy should call upon you to go farther, what shall prevent you from refusing? Your free agency will in no respect have been impaired. Your case will be better, in truth and in the opinion of mankind; and you will be, *therefore*, stronger in maintaining it, provided that, in doing so, you resort only to legitimate means, and do not *once more* forget the rights of others, while you seek to vindicate your own.

Whether France will be satisfied with what you may do, is not to be known by anticipation, and ought not to be a subject of inquiry. So vague a speculation has nothing to do with your duties to nations at peace, and, if it had, would annihilate them. It cannot serve your interests; for it tends to lessen the number of your friends, without adding to your security against your enemies.

You are required, therefore, to do right, and to leave the consequences to the future, when by doing right you have every thing to gain and nothing to lose.

As to the *orders in council*, which professed to be a reluctant departure from all ordinary rules, and to be justified only as a system of retaliation for a pre-existing measure of France, their foundation (such as it was) is gone the moment that measure is no longer in operation. But the Berlin decree is repealed; and even the *Milan* decree, the successor of your orders in council, is repealed also. Why is it, then, that your orders have outlived those edicts, and that they are still to oppress and harass as before? Your lordship answers this question explicitly enough, but not satisfactorily. You do not allege that the French decrees are not repealed; but you imagine that the repeal is not to remain in force, unless the British government shall, in addition to the revocation of its orders in council, abandon its system of blockade. I am not conscious of having stated, as your lordship seems to think, that this is so, and I believe in fact that it is otherwise. Even if it were admitted, however, the orders in council ought nevertheless to be revoked. Can "the safety and honour of the British nation" demand that these

orders shall continue to outrage the publick law of the world, and sport with the undisputed rights of neutral commerce, after the pretext which was at first invented for them is gone? But you are menaced with a *revival* of the French system, and consequently may again be furnished with the same *pretext!* Be it so; yet still, as the system and the pretext are *at present* at an end, so, of course, should be your orders.

According to your mode of reasoning, the situation of neutral trade is hopeless indeed. Whether the Berlin decree exists or not, it is equally to justify your orders in council. You issued them before it was any thing but a shadow, and by doing so gave to it all the substance it could ever claim. It is at this moment nothing. It is revoked and has passed away, according to your own admission. You choose, however, to look for its re-appearance; and you make your own expectation equivalent to the decree itself. Compelled to concede that there is no anti-neutral French edict in operation upon the ocean, you think it sufficient to say that there *will be* such an edict, you know not when; and in the mean time you do all you can to verify your own prediction, by giving to your enemy all the provocation in your power to resume the decrees which he has abandoned.

For my part, my lord, I know not what it is that the British government requires, with a view to what it calls its *safety* and its *honour*, as an inducement to rescind its orders in council. It does not, I presume, imagine that such a system will be suffered to ripen into law. It must intend to relinquish it, sooner or later, as one of those violent experiments for which time can do nothing, and to which submission will be hoped in vain. Yet, even after the professed foundation of this mischievous system is taken away, another and another is industriously procured for it; so that no man can tell at what time, or under what circumstances it is likely to have an end. When realities cannot be found, possibilities supply their place, and that, which was originally said to be retaliation for

actual injury, becomes at last (if such a solecism can be endured or imagined) retaliation for *apprehended* injuries, which the future may or may not produce, but which it is certain have no existence *now!*

I do not mean to grant, for I do not think, that the edict of Berlin did at any time lend even a colour of equity to the British orders in council, with reference to the United States; but it might reasonably have been expected that they, who have so much relied upon it as a justification, would have suffered it and them to sink together. How this is forbidden by your *safety* or your *honour* remains to be explained; and I am not willing to believe that either the one or the other is inconsistent with the observance of substantial justice, and with the prosperity and rights of peaceful states.

Although your lordship has slightly remarked upon certain recent acts of the French government, and has spoken in general terms of "the system of violence and injustice now pursued by France," as requiring "some precautions of defence on the part of Great Britain," I do not perceive that you deduce any consequence from these observations, in favour of a perseverance in the orders in council. I am not myself aware of any edicts of France which, now that the Berlin and Milan decrees are repealed, affect the rights of neutral commerce on the seas. And you will yourselves admit that if any of the acts of the French government, resting on territorial sovereignty, have injured, or shall hereafter injure, the United States, it is for them, and for them only, to seek redress. In like manner it is for Great Britain to determine what precautions of defence those measures of France, which you denominate unjust and violent, may render it expedient for her to adopt. The United States have only to insist that a sacrifice of their rights shall not be among the number of those precautions.

In replying to that passage in your letter, which adverts to the American act of non-intercourse, it is only necessary to mention the proclamation of the President of the

United States, of the 2d of November last, and the act of Congress which my letter of the 21st of September communicated, and to add that it is in the power of the British government to prevent the non-intercourse from being enforced against Great Britain.

Upon the concluding paragraph of your letter I will barely observe, that I am not in possession of any document, which you are likely to consider as *authentick*, showing that the French decrees are "absolutely revoked upon the single condition of the revocation of the British orders in council;" but that the information, which I have lately received from the American legation at Paris, confirms what I have already stated, and I think proved to your lordship, that those decrees are repealed and have ceased to have any effect. I will now trespass on you no farther than to suggest that it would have given me sincere pleasure to be enabled to say as much of the British orders in council and of the blockades, from which it is impossible to distinguish them.

I have the honour to be, with great respect, &c. &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, JAN. 14, 1811.

MY LORD,

AFTER a lapse of many months since I had the honour to receive and convey to my government your lordship's repeated assurances, written as well as verbal, (which you declined, however, to put into an official form) "that it was your intention *immediately* to recommend the appointment of a minister plenipotentiary from the king to the United States," the British government continues to be represented at Washington by a *charge d'affaires;* and no steps whatever appear to have been taken to fulfil the expectation which the above mentioned assurances produced and justified.

In this state of things it has become my duty to inform your lordship, in compliance with my instructions, that the government of the United States cannot continue to be represented here by a minister plenipotentiary.

As soon, therefore, as the situation of the king's government will permit, I shall wish to take my leave, and return to America in the United States frigate Essex, now at Plymouth, having first named, as I am specially authorized to do, a fit person to take charge of the affairs of the American legation in this country. I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY, *&c.*

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, JAN. 15, 1811.

MY LORD,

I HAVE the honour to inform you that it has been represented to me, that two American vessels (the schooner Polly and the schooner Mary) laden with cod fish, and bound from Marblehead to Bordeaux, in France, have, since the 1st instant, been captured and brought into Plymouth as prize, for an imputed breach of the British orders in council.

It is my duty to demand the restoration of these vessels and their cargoes to the American owners, together with compensation for their unjust detention, and liberty to resume the voyages which that detention has interrupted.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY, *&c.*

Extract of a Letter from Mr. Pinkney to the Secretary of State of the United States.

LONDON, FEB. 12, 1811.

"I RECEIVED a few hours since, a letter from lord Wellesley (of which a copy is enclosed) in answer to mine

of the 14th ultimo, respecting the British orders in council and blockades."

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, FEB. 11, 1811.

SIR,

THE letter which I had the honour to receive from you, under date the 14th of January, 1811, has been submitted to his royal highness the prince regent.

In communicating to you the orders which I have received from his royal highness on the subject of your letter, I am commanded to abstain from any course of argument, and from any expression, which (however justified by the general tenour of your observations) might tend to interrupt the good understanding, which it is the wish of his royal highness, on behalf of his majesty, to maintain with the government of the United States.

No statement contained in your letter appears to affect the general principles, which I had the honour to communicate to you in my letter of the 29th of December, 1810.

Great Britain has always insisted upon her right of self-defence against the system of commercial warfare pursued by France, and the British orders of council were founded upon a just principle of retaliation against the French decrees. The incidental operation of the orders of council upon the commerce of the United States, (although deeply to be lamented) must be ascribed exclusively to the violence and injustice of the enemy, which compelled this country to resort to adequate means of defence. It cannot now be admitted that the foundation of the original question should be changed, and that the measure of retaliation adopted against France should now be relinquished, at the desire of the United States, without any reference to the actual conduct of the enemy.

The intention has been repeatedly declared of repealing the orders of council, whenever France shall actually have revoked the decrees of Berlin and Milan, and shall have

restored the trade of neutral nations to the condition in which it stood previously to the promulgation of those decrees. Even admitting that France has suspended the operation of those decrees, or has repealed them, with reference to the United States, it is evident that she has not relinquished the conditions expressly declared in the letter of the French minister, under date the 5th of August, 1810. France, therefore, requires that Great Britain shall not only repeal the orders of council, but renounce those principles of blockade which are alleged in the same letter to be new; an allegation which must be understood to refer to the introductory part of the Berlin decree. If Great Britain shall not submit to these terms, it is plainly intimated in the same letter that France requires America to enforce them.

To these conditions, his royal highness, on behalf of his majesty, cannot accede. No principles of blockade have been promulgated or acted upon by Great Britain previously to the Berlin decree, which are not strictly conformable to the rights of civilized war, and to the approved usages and law of nations. The blockades established by the orders of council rest on separate grounds, and are justified by the principles of necessary retaliation in which they originated.

The conditions exacted by France, would require Great Britain to surrender to the enemy the most important maritime rights and interests of the united kingdoms.

I am commanded to inform you that his royal highness cannot consent to blend the question which has arisen upon the orders of council, with any discussion of the general principles of blockade.

This declaration does not preclude any amicable discussion upon the subject of any particular blockade, of which the circumstances may appear to the government of the United States to be exceptionable, or to require explanation.

I have the honour to be, &c. &c.

(*Signed*) WELLESLEY.

To WILLIAM PINKNEY, *Esq. &c. &c. &c.*

Mr. Pinkney to Lord Wellesley.

LONDON, FEB. 13, 1811.

MY LORD,

I HAVE had the honour to receive your letter of the 11th instant, and will transmit a copy of it to my government. I can have no inducement to trouble your lordship any farther upon the subject to which it relates.

I have the honour, &c. &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY.

Lord Wellesley to Mr. Pinkney.

THE marquis Wellesley has the honour to inform Mr. Pinkney, that his royal highness, the prince regent, will receive the foreign ministers at his levee at Carlton house, on Tuesday next, the 19th inst. at two o'clock.

Foreign Office, Feb. 12, 1811.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, FEB. 13, 1811.

MY LORD,

REFERRING to my letter of the 14th of last month, I beg to be informed by your lordship, at what time his royal highness the prince regent will do me the honour to give me audience of leave. I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, FEB. 16, 1811.

SIR,

I RECEIVED at a very late hour last night two notes (bearing date "Feb. 15, 1811") of which copies, marked No. 1, and No. 2, are enclosed.

Taken together (as of course they must be) they announce the appointment of Mr. Foster as envoy extraordinary and minister plenipotentiary to the United States,

and set forth the reasons why an appointment has been so long delayed.

You will perceive, in the second and third paragraphs of the unofficial paper, a distinct disavowal of the offensive views which the appointment of a mere *charge d'affaires* and other circumstances appeared originally to indicate. We are now told, in writing, that the delay in appointing a minister plenipotentiary was occasioned, *in the first instance*, not by such considerations as have been supposed, but "by an earnest desire of rendering the appointment satisfactory to the United States, and conducive to the effectual establishment of harmony between the two governments;" that more recently "the state of his majesty's government rendered it impossible to make the intended appointment;" and that lord Wellesley was therefore "concerned to find, by my letter of the 14th of January, that the government of the United States should be induced to suppose that any indisposition could exist, on the part of his majesty's government, to place the British mission in America on the footing most acceptable to the United States, as soon as might be practicable, consistently with the convenience of affairs in this country."

The two papers are evidently calculated to prevent me from acting upon my late request of an audience of leave; and they certainly put it in my power, if they do not make it my duty, to forbear to act upon it. I have it under consideration, (looking to the instructions contained in your letter of the 15th of November,) what course I ought to pursue. It is at any rate my intention to return to America in the Essex, as I shall doubtless have the President's permission in due season to do, in consequence of my letter to you of the 24th of November.

I have the honour to be, &c.

WM. PINKNEY.

Robert Smith, Esq. &c.

No. 1.

Lord Wellesley to Mr. Pinkney.

[Marked "private."]

FOREIGN OFFICE, FEB. 15, 1811.

SIR,

In the various unofficial communications which I have had the honour to make to you, respecting the appointment of a minister plenipotentiary from the king to the United States, I have endeavoured to explain to you, in the most distinct manner, the circumstances which had delayed that appointment; and I have expressed my intention to recommend that it should be carried into effect as soon as the situation of his majesty's government might permit.

The delay was occasioned, in the first instance (as I stated to you repeatedly) by an earnest desire of rendering the appointment satisfactory to the United States, and conducive to the effectual establishment of harmony between the two governments. Since that period of time the state of his majesty's government rendered it impossible to make the intended appointment.

I was therefore concerned to find, by your letter of the 14th of January, that the government of the United States should be induced to suppose that any indisposition could exist, on the part of his majesty's government, to place the British mission in America on the footing most acceptable to the United States, as soon as might be practicable, consistently with the convenience of affairs in this country.

In pursuance of the intention, so often declared to you, his royal highness the prince regent has been pleased, in the name and on behalf of his majesty, to appoint Mr. Foster, (lately charged with his majesty's affairs in Sweden) to be his majesty's envoy extraordinary and minister plenipotentiary to the United States; and that appointment will be notified in the next gazette.

You will, of course, exercise your own judgment, under these circumstances, respecting the propriety of requiring

an audience of leave, on the grounds which you have stated. I have the honour to be, &c.

(*Signed*) WELLESLEY.

No. 2.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, FEB. 15, 1811.

SIR,

HAVING submitted to his royal highness the prince regent your desire to have an audience of leave, with a view to your return to America, I am commanded by his royal highness to inform you that he will be prepared to receive you, at Carlton house, on Tuesday the 19th instant.

At the same time, I am commanded to inform you, that his royal highness, in the name and on the behalf of his majesty, has been pleased to appoint Augustus Foster, esquire, (lately charged with his majesty's affairs in Sweden) to be his majesty's envoy extraordinary and minister plenipotentiary to the United States.

I have the honour to be, &c.

(*Signed*) WELLESLEY.

Mr. Pinkney to Mr. Smith, Secretary of State.

LONDON, FEB. 18, 1811.

SIR,

THE result of my reflections on lord Wellesley's two communications of the 15th instant, will be found in my letter to him of yesterday's date, of which I now transmit a copy.

It appeared to me that the appointment of a minister plenipotentiary to the United States was nothing, or rather worse than nothing, if the orders in council were to remain in force; the blockade of May, 1806, to be unrepealed; the affair of the Chesapeake to continue at large, and the other urgent questions between us to remain unsettled.

The "posture of our relations," as you have expressed

it in your letter of the 15th of November, would not be "satisfactorily changed" merely by such an appointment; and of course my functions could not be resumed upon the sole foundation of it.

I have put it to lord Wellesley to say explicitly, whether full and satisfactory arrangement is intended, before I answer his official letter concerning my audience of leave.

If he is prepared to do at once what we require, or to instruct the new minister to do at Washington what does not demand immediate interference here, I shall think it my duty to forbear to take my leave on the 26th. If he declines a frank reply, or refuses our demands, I shall press for my audience and put an end to my mission.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

The Secretary of State of the U. States.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, FEB. 17, 1811.

MY LORD,

BEFORE I reply to your official communication of the 15th instant, you will perhaps allow me, in acknowledging the receipt of the unofficial paper which accompanied it, to trouble you with a few words.

From the appointment which you have done me the honour to announce to me, of a minister plenipotentiary to the United States, as well as from the language of your private letter, I conclude that it is the intention of the British government to seek immediately those adjustments with America, without which, that appointment can produce no beneficial effect. I presume, that, for the restoration of harmony between the two countries, the orders in council will be relinquished without delay; that the blockade of May 1806 will be annulled; that the case of the Chesapeake will be arranged in the manner heretofore intended, and, in general, that all such just and reasonable acts will be done as are necessary to make us friends.

My motives will not, I am sure, be misinterpreted, if, anxious to be enabled so to regulate my conduct in the execution of my instructions as that the best results may be accomplished, I take the liberty to request such explanations on these heads as your lordship may think fit to give me.

I ought to add, that, as the levee of his royal highness the prince regent has been postponed until Tuesday the 26th instant, I have supposed that my audience of leave is postponed to the same day; and that I have, on that ground, undertaken to delay my reply to your official communication until I receive an answer to this letter.

I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY.

Mr. Pinkney to Mr. Smith.

LONDON, FEB. 24, 1811.

SIR,

I RECEIVED last night lord Wellesley's answer (of which a copy is enclosed) to my letter of the 17th instant. He has marked it *private*, and speaks of my letter to him as being private also. My letter, however, was not so marked or intended; and his answer, however marked, is essentially an official communication of great importance.

His letter amounts to an explicit declaration that the orders in council are to be persisted in; and it furnishes no evidence of a disposition to give us any thing but vague and general professions on any subject. I did not, therefore, hesitate to send him a reply, declaring my intention to take leave on Thursday the 28th, in pursuance of my request of the 13th, and declining to attend the prince's levee on Tuesday the 26th. Of this reply a copy is now transmitted.

To mistake the views of this government is now impossible. They are such as I always believed them to be, and will, I hope, be resisted with spirit and firmness.

In shaping my course on this occasion, I have endeavoured to conform to the orders of the President, signified to me in your letter of the 15th of November. With those orders, as I understand them, my own wishes certainly concurred; but I trust that I have not suffered inclination to influence my interpretation of them.

According to your letter, my functions were to be considered as suspended on the receipt of it, if the British government had not *then* appointed a minister plenipotentiary to the United States. Such an appointment had not at that time been made, and consequently the suspension took place. Upon a careful consideration of your letter, it appeared to me to look to a REVIVAL of my functions, in the event of "a satisfactory change in the posture of our relations" with this country. I could not indeed find in it any precise provision to that effect; but there was apparently room for such a construction; and I have already informed you, that, however anxious to close my mission and retire from the publick service, I was disposed to act, for a few weeks, upon that implication, in case such a change occurred in our relations as I deemed a *satisfactory* one. It could not be imagined that the appointment of Mr. Foster produced that change; and, supposing it to be left, in some degree at least to my discretion to determine in what it should consist, I had no difficulty in deciding that the immediate repeal of the orders in council and the blockade of May 1806, a distinct pledge on the affair of the Chesapeake, and a manifestation of a disposition to accommodate with us, upon principles of justice, on all other concerns, were indispensable ingredients. It followed, that, upon receiving lord Wellesley's letter of yesterday's date, I had no choice but to press for my audience of leave.

It may perhaps be thought that I ought not to have refused to appear at Carlton House on the 26th, for the purpose of being presented, with the other foreign ministers, to the regent. I have not, myself, any doubt at all upon that point. My appearance at the levee for such a purpose would import that I consider my capacity as the

minister of the United States to be entire, and would, moreover, encourage the delusion which now prevails concerning the views of the British government towards America. I have the honour to be, &c. &c.

(*Signed*) WM. PINKNEY.

Robert Smith, Esq. &c. &c.

Lord Wellesley to Mr. Pinkney.

[Marked private.]

APSLEY HOUSE, FEB. 23, 1811.

SIR,

I HAVE the honour to acknowledge the receipt of your private* letter, under date the 17th instant.

I take the liberty of referring you to my former unofficial letters and communications for an explanation of the motives which have induced this government, in pursuance of those amicable views which I have uniformly declared, to appoint a minister plenipotentiary to the United States.

I have already assured you that the delay of that appointment was occasioned, in the first instance, by an anxious desire to make it in the manner which was likely to prove most acceptable to the United States. The appointment was recently delayed by the state of his majesty's government; and it has ultimately taken place in pursuance of the principles which I have repeatedly stated to you, and not in consequence of any change of system. It is perhaps unnecessary to repeat the desire of this government to relinquish the orders in council, whenever that measure can be adopted without involving the necessity of surrendering the most important and valuable maritime rights and interests of the united kingdom. No objection has ever been stated, on the part of this government, to an amicable discussion of the principles of any blockade, which may be deemed exceptionable by the United States.

* N. B. This is a mistake. Mr. Pinkney's letter was not marked *private*, nor intended to be so. WM. PINKNEY.

I have expressed to you, without reserve, a desire to arrange the case of the Chesapeake on just and equitable principles; and I trust that no apprehension can be entertained of the general disposition of this government to adopt every reasonable measure, which may be necessary to conciliate the friendship of the United States. But it would be neither candid towards you, nor just towards this government, to countenance any interpretation of the motives of the late appointment, which might favour a supposition that it was intended by this government to relinquish any of the principles which I have so often endeavoured to explain to you.

His royal highness's levee will take place on Tuesday the 26th instant; but I have received his commands to signify to such of the foreign ministers as may desire to have private audiences, that his royal highness will receive them on Thursday the 28th inst. The foreign ministers, however, will all be presented to his royal highness on Tuesday the 26th instant, on which day I shall attend for that purpose. I have the honour to be, &c.

(*Signed*) WELLESLEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, FEB. 23, 1811.

MY LORD,

I HAVE had the honour to receive your private letter of this day's date.

It only remains for me to inform your lordship that I have transmitted to the secretary of state of the United States, a copy of your official communication of the 15th instant, and of the unofficial paper which accompanied it; and that I will avail myself of the disposition of his royal highness the prince regent, to give me an audience of leave on Thurday next the 28th of February, in pursuance of the request contained in my letter of the 13th inst. which referred to my letter of the 14th of January.

I take the liberty to add that, until the time appointed

for my audience, I will not trespass on his royal highness, for the purpose of being presented to him.

I have the honour to be, &c.

(*Signed*) WM. PINKNEY.

The most noble the Marquis WELLESLEY.

Extract of a Letter from Mr. Pinkney to Mr. Smith, Secretary of State, dated London, March 1, 1811.

"I HAD my audience of leave at Carlton house yesterday.

"In the course of the short address which the occasion required, I stated to the prince regent the grounds upon which it had become my duty to take my leave, and to commit the business of the legation to a charge d'affaires; and I concluded by expressing my regret that my humble efforts, in the execution of the instructions of my government, to set to rights the embarrassed and disjointed relations of the two countries, had wholly failed, and that I saw no reason to expect that the great work of their reconciliation was likely to be accomplished through any other agency.

The prince's reply was of course general; but I ought to say that (exclusively of phrases of courtesy) it contained explicit declarations of the most amicable views and feelings towards the United States. Lord Wellesley was the only person present at this audience.

While I was in the outer room, waiting until the prince regent was ready to receive me, lord Wellesley told me that they intended to send out Mr. Foster immediately."

Extract of a Letter from Mr. Pinkney to the Secretary of State of the United States.

COWES, MAY 7, 1811.

"I ENCLOSE duplicate copies (more legible than those transmitted in my letter of the 13th of March) of Mr. Russell's communications to me of the 1st, 11th, 13th, and 30th of December last. They are necessary to account

for, not the general character or substance of my late correspondence with lord Wellesley, but that particular part of the last paragraph of my letter to that nobleman, of the 14th of January, 1811, which is contained in the following words: "The information which I have lately received from the American legation at Paris, confirms what I have already stated, and I think proved to your lordship, that those decrees are repealed, and have ceased to have any effect." I have the honour, &c.

WM. PINKNEY.

The Hon. R. Smith, &c.

Mr. Russell to Mr. Pinkney.

PARIS, DEC. 1, 1810.

SIR,

As nothing has transpired here of sufficient importance to be communicated by a special messenger; and as no safe private conveyance has hitherto presented itself till now, to acknowledge the receipt of your letters under dates of the 7th and 28th of October; no event within my knowledge has occurred, either before or since the 1st of Nov. to vary the construction given by us to the very positive and precise assurances of the duke of Cadore on the 5th of August, relative to the revocation of the Berlin and Milan decrees. That these decrees have not been executed for an entire month on any vessel, arriving during that time, in any of the ports of France, may, when connected with the terms in which their revocation was announced, fortify the presumption that they have ceased to operate. I know of no better evidence than this, which the negative character of the case admits; or how the non-existence of an edict can be proved, except by the promulgation of its repeal, and its subsequent non-execution.

Our attention here is now turned towards England and the United States. The performance of one of the conditions on which the revocation of the decrees was predicated, and which is essential to render it permanent, is anxiously expected. And it is devoutly to be wished that England, by

evincing the sincerity of her former professions, may save the United States from the necessity of resorting to the measure which exclusively depends on them.

I need not suggest to you the importance of transmitting hither, as early as possible, any information of a decided character, which you may possess, relative to this subject; as an impatience is already betrayed here to learn that one or the other of the conditions has been performed.

I am, sir, &c.

(*Signed*) JONA. RUSSELL.

His excellency WM. PINKNEY, *&c.*

Mr. Russell to Mr. Pinkney.

PARIS, DEC. 11, 1810.

SIR,

I HAVE had the pleasure to receive your letter of the 22d ult. by Mr. Page, and I thank you most sincerely for the papers which accompanied it. It is no where more necessary than at Paris, to hear both sides of a question in order to give a near guess at the truth. The way in which the story is told on your side of the channel, will enable me to correct many errours which it contains as told here. The obligations you confer on me this way I shall endeavour to discharge in kind.

I wrote you a few days since by the way of Dieppe, and gave you the best statement of affairs here that the truth would warrant, in hopes that you might derive some advantage from it. I assure you I have felt disappointed, and grieved, at the conduct of the British ministry. If they distrusted the sincerity of their enemies, with regard to the revocation of the decrees here, still it would have been good policy to have appeared to believe them, and to have acted accordingly. By pursuing a different course, they have missed a golden opportunity of honourably repealing their offending orders, and, in so doing, to have proved at once their own sincerity, and conciliated the good opinion of the United States. If the Essex frigate, which arrived on the 4th instant at L'Orient, in twenty-eight days from

Norfolk, has brought the President's proclamation in pursuance of the law of the first of May, the British ministry will be placed in an awkward situation. They will have to persevere in their orders, at the expense of their veracity and at the hazard of war with the United States, or to withdraw them under very equivocal circumstances, which will give to their conduct the appearance of being rather the result of necessity than the dictate of principle. That the frigate has brought this proclamation there is good cause to suppose, from the time when she left the United States, being a few days subsequent to the period when the Berlin and Milan decrees were to cease to operate. If she has brought this proclamation, it will, without doubt, render absolute the revocation of those decrees, whatever uncertainty might have before attended it. There are probably, then, but a few days left in which the repeal of the British orders can appear to be the spontaneous act of the ministry; and I sincerely hope, that by properly improving this short period, they may do, with a good grace, what cannot be done afterwards in a way either to save their pride or deserve our friendship.

Agreeably to your request, I shall change the file of the Journal de l'Empire, which I intended for you, for that of the Moniteur. I am, sir, &c.

JONA. RUSSELL.

His Excellency WM. PINKNEY, *&c.*

Mr. Russell to Mr. Pinkney.

PARIS, DEC. 27, 1810.

SIR,

I HAVE received your letters of the 5th and 6th of this month, by Mr. Bowdoin and Mr. Wells.

The vessel you mention, the Charles, having on board a large quantity of turpentine, which is considered here as naval stores, will probably be condemned for carrying contraband of war to an enemy, without any reference to the Berlin and Milan decrees.

On the other hand, the American vessels which have

been permitted to land their outward cargoes in the ports of France, and take in return cargoes to the United States, are, as far as I can learn, but two in number, and in fact arrived before the first of November, and to them the decrees were not applicable. The other vessels which have taken away cargoes arrived here in ballast, and were recommended by special circumstances to the consideration of this government.

Nothing can therefore be inferred either for or against the revocation of the French edicts, from the facts referred to in your letter of the 6th instant.

Since I last wrote, however, I have learnt the seizure and capture of two or three American vessels, but the course which this government will pursue in relation to them, being marked out by the letters of the minister of justice to the president of the council of prizes, and from the minister of finance to the director general of the customs, which you will find in the Moniteurs which I herewith send to you, it is unnecessary to enter into a particular detail of the circumstances which attended these cases.

I am willing to believe that what this government has done, although it may not be entirely satisfactory to the United States, will at least be sufficient to procure from the British government a repeal of the orders in council, and the restoration of all American property taken under them since the first of November.

It is possible that the French cruisers may hereafter continue their depredations, but abuses of this kind are very distinct from the operation of the Berlin and Milan decrees, and cannot, by the most extravagant construction of the law of retortion, afford a pretext for the continuance of the British orders. I am, sir, &c. &c.

(*Signed*) JONA. RUSSELL.

His Excellency Wm. Pinkney, *&c.*

Mr. Russell to Mr. Pinkney.

PARIS, DEC. 30, 1810.

SIR,

A GENTLEMAN called on me last evening from the duke of Cadore, to inform me that the American schooner, the Grace Ann Greene, had been released.

This vessel arrived at Marseilles since the first of November, and was last from Gibraltar, where she had remained some time. As she came clearly within the Berlin and Milan decrees, her release may be considered as conclusive evidence of their revocation. I am, sir, &c.

JONA. RUSSELL.

His Excellency WM. PINKNEY, *&c.*

CORRESPONDENCE OF MR. JOHN SPEAR SMITH.

Extract of a Letter from J. S. Smith, Esq. to the Secretary of State, dated London, May 25, 1811.

"I HAD yesterday for the first time, an interview with lord Wellesley, and presented to him the letters of introduction that Mr. Pinkney had given me, and he received me in the most polite manner."

Mr. J. S. Smith to Marquis Wellesley.

LONDON, MAY 27, 1811.

MY LORD,

I HAVE the honour to inform your lordship (from official information, this day received by me from Paris,) that all the American vessels which have voluntarily arrived in France, since the first of November, have been admitted. This (if any additional evidence of the repeal of the Berlin and Milan decrees were wanting,) will sufficiently establish the fact of their revocation, as most of the vessels now admitted, would otherwise have been subject to their operation. I have the honour to be, &c.

(*Signed*) J. S. SMITH.

The most noble the Marquis WELLESLEY, *&c.*

Extract of a Letter from Mr. John S. Smith to the Secretary of State, dated London, June 8, 1811.

"ENCLOSED is the copy of a letter which I addressed to lord Wellesley on the 5th instant. I had delayed making this communication in the hope that I should do it at the interview which he had promised me, and which I again requested on the 3d instant. I did not consider it necessary to enter at length into a subject which has been so often and so ably discussed, and on which nothing has been left to add. I shall, however, enter into any explanations that may be necessary when I again see his lordship."

Mr. J. S. Smith to Lord Wellesley.

BENTINCK STREET, JUNE 5, 1811.

MY LORD,

I HAVE the honour to communicate to your lordship the copy of an act passed during the last session of Congress, which, though it renews certain parts of the non-intercourse law against this country, yet it carefully gives to the President the authority to repeal it "when Great Britain shall so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States." In this, as well as in the other provisions of the act, his majesty's government cannot fail to observe the invariable disposition of the United States to preserve harmony with Great Britain, and to re-establish that happy intercourse between the two nations, which it is so much the interest of both to cultivate; and the President confidently expects that his majesty will not hesitate to abandon a system, always urged to be merely retaliatory, now that its causes have ceased to exist.

I have the honour to inform your lordship that the gentleman who will be the bearer of my despatches to the United States, in the John Adams, will leave town on Friday evening, and that I shall be happy to forward by the

same occasion any despatches that your lordship may wish to send to the United States.

I have the honour to be, &c.

(*Signed*) J. S. SMITH.

The most noble the marquis WELLESLEY.

Mr. Smith, Charge d'Affaires at London to the Secretary of State of the United States.

LONDON, JUNE 6, 1811.

SIR,

I HAVE the honour to enclose a report of the trial of the Fox and others.

The John Adams will leave Cowes this week; the messenger goes down to-morrow evening.

I have the honour to be, &c.

(*Signed*) J. S. SMITH.

The Honourable the Secretary of State, &c.

COURT OF ADMIRALTY. THURSDAY, MAY 30, 1811.

FOX AND OTHERS.

JUDGMENT.

SIR WILLIAM SCOTT.—This was the case of an American vessel which was taken on the 15th of November, 1810, on a voyage from Boston to Cherbourg. It is contended on the part of the captors, that, under the order in council of the 26th April, 1809, this ship and cargo, being destined to a port of France, are liable to confiscation. On the part of the claimants it has been replied, that the ship and cargo are not confiscable under the orders in council; first, because these orders have in fact become extinct, being professedly founded upon measures which the enemy had retracted; and secondly, that if the orders in council are to be considered as existing, there are circumstances of equity in the present case, and in the others that follow, which ought to induce the court to hold them exonerated from the penal effect of these orders.

In the course of the discussion a question has been started, what would be the duty of the court under orders in council that were repugnant to the law of nations? It has been contended on one side, that the court would at all events be bound to enforce the orders in council: on the other, that the court would be bound to apply the rule of the law of nations applying to the particular case, in disregard of the orders in council. I have not observed, however, that these orders in council, in their retaliatory character, have been described in the argument as at all repugnant to the law of nations, however liable to be so described if merely original and abstract; and therefore it is rather to correct possible misapprehension on the subject than from the sense of any obligation which the present discussion imposes upon me, that I observe that this court is bound to administer the law of nations to the subjects of other countries in the different relations in which they may be placed towards this country and its government. This is what other countries have a right to demand for their subjects, and to complain if they receive it not. This is its unwritten law evidenced in the course of its decisions, and collected from the common usage of civilized states. At the same time it is strictly true, that by the constitution of this country, the king in council possesses legislative rights over this court, and has power to issue orders and instructions which it is bound to obey and enforce; and these constitute the written law of this court. These two propositions, that the court is bound to administer the law of nations, and that it is bound to enforce the king's orders in council, are not at all inconsistent with each other; because these orders and instructions are presumed to conform themselves, under the given circumstances, to the principles of its unwritten law. They are either directory applications of those principles to the cases indicated in them—cases which, with all the facts and circumstances belonging to them, and which constitute their legal character, could be but imperfectly known to the court itself; or they are positive regulations, consistent with those princi-

ples, applying to matters which require more exact and definite rules than those general principles are capable of furnishing.

The constitution of this court, relatively to the legislative power of the king in council, is analogous to that of the courts of common law relatively to that of the parliament of this kingdom. Those courts have their unwritten law, the approved principles of natural reason and justice—they have likewise the written or statute law in acts of parliament, which are directory applications of the same principles to particular subjects, or positive regulations consistent with them, upon matters which would remain too much at large if they were left to the imperfect information which the courts could extract from mere general speculations. What would be the duty of the individuals who preside in those courts if required to enforce an act of parliament which contradicted those principles, is a question which I presume they would not entertain *a priori*, because they will not entertain *a priori* the supposition that any such will arise. In like manner this court will not let itself loose into speculations as to what would be its duty under such an emergency, because it cannot, without extreme indecency, presume that any such emergency will happen; and it is the less disposed to entertain them, because its own observation and experience attest the general conformity of such orders and instructions to its principles of unwritten law.—In the particular case of the orders and instructions which give rise to the present question, the court has not heard it at all maintained in argument, that as retaliatory orders they are not conformable to such principles—for retaliatory orders they are.—They are so declared in their own language, and in the uniform language of the government which has established them. I have no hesitation in saying, that they would cease to be just if they ceased to be retaliatory; and they would cease to be retaliatory, from the moment the enemy retracts in a sincere manner those measures of his which they were intended to retaliate.

The first question is, what is the proper evidence for this court to receive, under all the circumstances that belong to the case, in proof of the fact that he has made a *bona fide* retractation of those measures. Upon that point it appears to me that the proper evidence for the court to receive, is the declaration of the state itself, which issued these retaliatory orders, that it revokes them in consequence of such a change having taken place in the conduct of the enemy. When the state, in consequence of gross outrages upon the law of nations committed by its adversary, was compelled, by a necessity which it laments, to resort to measures which it otherwise condemns, it pledged itself to the revocation of those measures as soon as the necessity ceases. And till the state revokes them, this court is bound to presume that the necessity continues to exist; it cannot, without extreme indecency, suppose that they would continue a moment longer than the necessity which produced them, or that the notification that such measures were revoked, would be less publick and formal than their first establishment. Their establishment was doubtless a great and signal departure from the ordinary administration of justice in the ordinary state of the exercise of publick hostility, but was justified by that extraordinary deviation from the common exercise of hostility in the conduct of the enemy. It would not have been within the competency of the court itself to have applied originally such rules, because it was hardly possible for this court to possess that distinct and certain information of the facts to which alone such extraordinary rules were justly applicable. It waited therefore for the communication of the facts: It waited likewise for the promulgation of the rules that were to be practically applied. For the state might not have thought fit to act up to the extremity of its rights on this extraordinary occasion: It might, from motives of forbearance, or even of policy unmixed with any injustice to other states, have adopted a more indulgent rule than the law of nations would authorize, though it is not at liberty ever to apply a harsher

rule than that law warrants. In the case of the Swedish convoy, which has been alluded to, no order or instruction whatever was issued, and the court therefore was left to find its way to that legal conclusion which its judgment of the principles of the law led it to adopt. But certainly, if the state had issued an order that a rule of less severity should be applied, this court would not have considered it as any departure from its duty to act upon the milder rule, which the prudence of the state was content to substitute in support of its own rights. In the present case, it waited for the communication of the fact and the promulgation of the rule. It is its duty in like manner to wait for the notification of the fact that these orders are revoked in consequence of a change in the conduct of the enemy.

The edicts of the enemy themselves, obscure and ambiguous in their usual language, and most notoriously and frequently contradicted by his practice, would hardly afford it a satisfactory evidence of any such change having actually and sincerely taken place. This state has pledged itself to make such a notification when the fact happens: It is pledged so to do by its publick declarations—by its acknowledged interpretations of law of nations—by every act which can excite an universal expectation and demand, that it shall redeem such a pledge. Is such an expectation peculiar to this court? most unquestionably not. It is universally felt and universally expressed. What are the expectations signified by the American government, in the publick correspondence referred to? not that these orders would become silently extinct under the interpretations of this court, but that the state would rescind and revoke them. What is the expectation expressed in the numerous private letters exhibited to the court amongst the papers found on board this class of vessels? not that the British orders had expired of themselves, but that they would be removed and repealed by publick authority. If I took upon myself to annihilate them by interpretation, I should act in opposition to the apprehension and judgment of all parties concerned—of the individuals whose property is in ques-

tion, and of the American government itself, which is bound to protect them.

Allusion has been made to two or three cases, in which this court is said to have exercised a power of qualifying and moderating the general terms of an order in council, as in the case of the Lucy, Taylor, in which the genera terms of the order subjected to confiscation all ships transferred by the enemy to neutrals during the war, and yet this court held that these general terms did not extend to prize ships so transferred by the enemy. But what was the ground of that interpretation? It was this: The rule itself was adopted from the rule of the enemy, and upon a principle of exact retaliation; for it was declared in the express terms of the preamble of the order, that it was *just to apply the same rule to the enemy which he was in the habit of applying to this country.* And when the court found, upon satisfactory evidence, that the enemy did not apply any such rule to prize ships, but specially exempted them, it would have pronounced in direct contradiction to the avowed principle of the order itself, if it had not followed the enemy in this acknowledged distinction. It has likewise been urged that cases may be found in which the court has presumed a revocation, though no such revocation has been promulged. And it is certainly true that where an essential change in the circumstances that occasioned the order has, in effect, extinguished its subject matter, and that change of circumstances has been publickly declared by the state, the court has not thought it necessary to wait for a formal revocation itself. In the case of the Baltic order, by which, in compliance with the wishes of its allies in the war, the government of this country granted an immunity from the molestation of capture in that sea; the court held that order to be revoked when the state had declared, that most of those states to whose applications, as allies, that indulgence had been granted, had changed the character of allies for that of enemies. It was quite unnecessary to wait for such special revocation, when, by the general declaration of war, all hostilities had been authorized against them.

Admitting, however, that there may be cases of presumed revocation, does it follow that this is, with any propriety, to be considered as one of those cases? The novelty of these orders in council, the magnitude, the complexity, the extraordinary nature of the facts to which they owe their origin, the attention which they called for and excited both at home and abroad, the pledges given by this state and accepted by other states, all disqualify this court from taking upon itself to apply a presumed revocation in any such case.

Supposing, however, that the court felt itself at liberty to accept as satisfactory other evidence of a sincere retractation of the French decrees, what is the amount of the evidence offered? No edict, no publick declaration of repeal, no reference to cases in which the courts of that country have acted upon any such revocation. The only case mentioned was that of the New Orleans Packet, and it was brought forward in such a way, so void of all authenticity, and of all accurate detail of particulars, as to make it hardly possible for me to allude to it with any propriety, and much less with any legal effect. What the circumstances of that case were, in what form, and under what authority, and on what account released, did not at all appear: whether at all applicable to the present question, whether a mere irregularity, or what was its real character, the court could not learn. This however is matter of notoriety, that these decrees are pronounced fundamental laws of the French empire; that they were declared so in their original formation, and that they have been since so declared repeatedly and recently, long since the date of the present transaction. The declaration of the person styling himself duke de Cadore imports no revocation; for that declaration imports only a conditional retractation, and this upon conditions known to be impossible to be complied with. It has been urged that the American government has considered it otherwise, and has so declared it for the regulation of the conduct of the people of that country. If such is the fact, it is not for me to lose sight

of that respect which is due to the acts of a foreign government, so far as to question the propriety of any interpretation which they may have given to such an instrument. But when the effect of such an instrument is pressed upon me for the purpose of calling for my decision, I must be allowed to interpret it for myself, and to act upon that interpretation. And to me it appears, that the declaration, clogged as it is with stipulations known to be beyond the reach of all rational hope of any possible compliance, is in effect a renunciation of any serious purpose of repealing those decrees. I think I might invoke the authority of the government of the United States for denying to this French declaration the effect of an absolute repeal, when I observe that the period which they have allowed to the British government for revoking our orders in council extends to the 2d of February; an allowance which could hardly have been made if the revocation on the part of France had really taken place at the time to which that declaration purports to refer.

In the absence of any declaration of the British government to such an effect, there is a total failure of all other evidence, (if the court were at liberty to accept other evidence as satifactory,) that the French decrees had been revoked. If I were driven to decide upon that evidence, independent of all evidence to be regularly furnished by the government under whose authority I sit, I think I am bound to pronounce that no such revocation has taken place, and therefore that the orders in council subsist in perfect justice as well as in complete authority.

It is incumbent upon me, I think, to take notice of an objection of Dr. Herbert's, to the existence of the orders in council, namely, that British subjects are, notwithstanding, permitted to trade with France, and that a blockade which excludes the subjects of all other countries from trading with ports of the enemy, and at the same time permits any access to those ports to the subjects of the state which imposes it, is irregular, illegal, and null. And I agree to the position, that a blockade, imposed for the

purpose of obtaining a commercial monopoly for the private advantage of the state which lays on such blockade, is illegal and void on the very principle upon which it is founded. But, in the first place, (though that is matter of inferiour consideration) I am not aware that any such trade between the subjects of this country and France is generally permitted. Licenses have been granted certainly in no inconsiderable numbers; but it never has been argued that particular licenses would vitiate a blockade. If it were material in the present case, it might be observed, that many more of these licenses had been granted to foreign ships than to British ships, to go from this country to France, and to return here from thence with cargoes. But, secondly, what still more clearly and generally takes this matter out of the reach of the objection, is the particular nature and character of this blockade of France, if it is so to be characterized. It is not an original, independent act of blockade, to be governed by the common rules that belong simply to that operation of war. It is in this instance a counteracting reflex measure, compelled by the act of the enemy, and as such subject to other considerations arising out of its peculiarly distinctive character. France declared that the subjects of other states should have no access to England; England, on that account, declared that the subjects of other states should have no access to France. So far this retaliatory blockade (if blockade it is to be called) is co-extensive with the principle: neutrals are prohibited to trade with France, because they are prohibited by France from trading with England. England acquires the right, which it would not otherwise possess, to prohibit that intercourse, by virtue of the act of France. Having so acquired it, it exercises it to its full extent, with entire competence of legal authority; and having so done, it is not for other countries to inquire how far this country may be able to relieve itself further from the aggressions of that enemy. The case is settled between them and itself by the principle on which the intercourse is prohibited. If the convenience of this country

before this prohibition required some occasional intercourse with the enemy, no justice that is due to other countries requires that such an intercourse should be suspended on account of any prohibition imposed upon them on a ground so totally unconnected with the ordinary principles of a common measure of blockade, from which it is thus distinguished by its retaliatory character.

The last question is, are there any circumstances addressed to equitable consideration, that can relieve the claimants from the penal effects of these orders? Certainly, if any could be urged that arose from the conduct of the British government itself, they might be urged with a powerful and even irresistible effect; but if they found themselves in the fraud of the enemy, or in the misapprehensions of the American government induced by the fraud of the enemy, they found no claim on the British government or on British tribunals. In the one case they must resort for redress to a quarter where, I fear it is not to be found—to the government of the enemy: in the other, where, I presume, it is to be found—to the government of their own country.

Upon the declaration of the American government I have already said as much as consists with the respect which I am bound to pay to the declaration of a foreign government, professedly neutral. The custom-houses of that country, say the claimants, cleared us out for France publickly, and without reserve. They did so; but they left the claimants to pursue all requisite measures for their own security, in expectation I presume, that they would inform themselves, by legal inquiry, whether the blockade continued to exist, if its continuance was uncertain. That it was perfectly uncertain in their own apprehensions, is clear from the tenour of these letters of instructions to the different masters of these vessels. In these letters, which are numerous, all is problematical between hope and fear; a contest between the desire of getting first to a tempting market on the one side, and the possible hazard of British capture on the other; and it is to be regretted that the

eagerness of mercantile speculation has prevailed over the sense of danger. In such a state of mind, acting upon circumstances, the party must understand that he takes the chance of events—of advantage, if the event which he hopes for has taken place, and of loss if it has not. It is his own adventure, and he must take profit or loss as the event may throw it upon. He cannot take the advantage without the hazard of loss, unless by resorting to British ports in the channel, where certain information may be obtained, on the truth of which all prospects of loss or profit may safely be suspended. On the British government no responsibility can be charged. They were bound to revoke as soon as they were satisfied of the sincere revocation of the French decrees. Such satisfaction they have not signified, and I am bound to presume that no such satisfaction is felt. With respect to the demand of warning, the orders themselves are full warning. They are the most formal admonitions that could be given; and being given and unrevoked, they require no subsidiary notice.

On the grounds of the present evidence, I therefore see no reason to hold the claimants discharged; but I do not proceed to an ultimate decision upon their interests, till I see the effect of that additional evidence which is promised to be produced upon the fact of the French retractation of their decrees, said to have been very recently received from Paris, by the American charge d'affaires in this country. Having no official means of communication with foreign ministers, I shall hope to receive the information in a regular manner, through the transmission of the British officers of state.

Final adjudication suspended.

Extract of a Letter from J. S. Smith, Esq. to the Secretary of State, dated London, June 16, 1811.

"On the 9th inst. the day after Mr. Hamilton left town with my despatches, I received the enclosed note from lord Wellesley, appointing Tuesday the 11th to see me at

his house. I immediately wrote to captain Dent, to detain the frigate, until he heard from me again, but he had gone to sea before my letter reached Cowes, and I am now compelled to send this by another opportunity.

"I waited on lord Wellesley, according to his appointment. He commenced the conversation by observing that, whenever there was any thing of importance to be communicated, it was better to do it in writing, as when merely verbal it was liable to be misunderstood; that he did not mean any thing personal to me; that the same rule was observed by the other foreign agents here, and was customary. I replied that I was ready to pursue this system; that in the note which I had written him, enclosing the non-importation act, I had not gone into a lengthy discussion, as that whatever I might say would be only a recapitulation of what had so often been written. I however proceeded to explain the new act, and to remark to him the particularly amicable nature of the second section of it; that I conceived this to be a most favourable opportunity for Great Britain to abandon her system of restrictions; and particularly at this moment, when I had communicated practical instances of the repeal of the obnoxious measures of France. He said that he did not think they would do any thing before they heard from Mr. Foster, who had full instructions upon this, and the other points in dispute.

"I turned the conversation to the subject of your letter of the 22d of January, and asked him if Mr. Pinkney had given any explanations about the taking possession of West Florida. He replied, that the first he had heard of it, was through Mr. Morier, though he had reason to expect something from Mr. Pinkney; that Mr. Foster, however, was instructed on this point. I asked if East Florida was included in these instructions? He replied that it was. I then communicated to him the substance of your letter, and explained with frankness the intentions of the United States. He expressed his wish that this, as well as the other subjects, should lay over until they heard from America.

"I showed him the letter of the President to his majesty, containing Mr. Pinkney's permission to return. He said, that it would be proper that I should write him a note, enclosing this letter, and requesting him to present it to the prince regent.

"The vessels detained here under the orders in council, have not yet been finally condemned, and I represented to lord Wellesley how important it was, that they should be released, or that they should be still suspended. He said that he desired it also, but that private rights being concerned, it was difficult for government to interfere for their longer suspension. I am induced to believe that they will wait until they hear from Mr. Foster."

Extract of a Letter from John Spear Smith, Esq. to the Secretary of State of the United States, dated London, June 27, 1811.

"I HAVE the honour to enclose a copy of the final decision of Sir William Scott, in the case of the Fox and others.

"The court, on Tuesday last, the 25th inst. condemned the remaining American vessels captured under the orders in council. As soon as I can procure a correct list of them, I will have the honour to forward it. The seamen, who are left destitute by these condemnations, will be taken care of by general Lyman. They are of course numerous."

Sir William Scott's sentence in the case of the Fox, &c. &c.

JUDGMENT RESUMED.

SIR WILLIAM SCOTT. As the claimants have failed to produce any evidence of the revocation of the French decrees, and have nothing to offer as the foundation of a demand for further time, I must conform to what I declared on a former day, and proceed to make the decree effectual. I should certainly have been extremely glad to have received any authentick information tending to show

that the decrees of France, to which these orders in council are retaliatory, had been revoked; and it was upon a suggestion offered on the part of the claimants, that despatches had been very recently received from Paris by the American minister in this country, by which the fact might be ascertained, that the court on the former day deferred its final judgment. It would have been unwilling to proceed to the condemnation of these vessels, without giving the proprietors the opportunity of showing that the French decrees, on which our orders in council are founded, had been revoked. But they admit that they have no such evidence to produce; the property of the ships and cargoes is daily deteriorating, and it is my duty to delay no longer the judgment which is called for on the part of the captors.

From every thing that must have preceded, and from every thing that must have followed the revocation of the French decrees, if such revocation had taken place, I think I am justified in pronouncing that no such event has ever occurred. The only document referred to on behalf of the claimants is the letter of the person styling himself *Duc de Cadore*. That letter is nothing more than a conditional revocation: it contains an alternative proposed, either that Great Britain shall not only revoke her orders in council, but likewise renounce her principles of blockade, principles founded upon the ancient and established law of nations; or that America shall cause her neutral rights to be respected; in other words, that she shall join France in a compulsive confederation against this country. It is quite impossible that England should renounce her principles of blockade to adopt the new-fangled principles of the French government, which are absolute novelties in the law of nations; and I hope it is equally impossible that America should lend herself to an hostile attempt to compel this country to renounce those principles on which it has acted, in perfect conformity to ancient practice and the known law of nations, upon the mere demand of the person holding the government of France. The *casus fœderus* therefore, if it may be so called, does not exist; the con-

ditions on which alone France holds out a prospect of retracting the decrees, neither are nor can be fulfilled. Looking at the question therefore, *a priori*, it cannot be presumed that the revocation has passed. On the other hand, what must have followed if such had been the fact? Why, that the American minister in this country must have been in possession of most decisive evidence upon the subject; for I cannot but suppose that the first step of the American minister at Paris would have been to apprize the American minister at this court, of so momentous a circumstance, with a view to protect the American ships and cargoes which had been brought in under the British orders in council. If no such information has been received by him, there never was a case in which the rule "De non apparentibus et non existentibus eadem est ratio" can more satisfactorily apply. For it is quite impossible that such a revocation can have taken place without being attended with a clear demonstration of evidence that such was the fact.

I am, therefore, upon every view of the case, of opinion, that the French decrees are at this moment unrevoked. But if by any possibility it can have happened that an actual revocation has taken place against the manifest import of the only publick French declaration referred to, and without having been yet communicated to the American minister in this country, who was so much concerned to know it, for the benefit of the persons for whose protection it must have been principally meant; the parties will have the advantage of the fact if they can show upon an appeal that those decrees have been revoked at a time and in a manner that could justly be applied to the determination of these causes; revoked at a period which would reach the dates of this capture, and in a manner unincumbered with stipulations, which it was well known this country could never accept, and to which there was every reason to presume that the justice of America could never permit her to accede, upon the refusal of Great Britain. On such a state of evidence the claimants will carry up with them to

the superior court, the principle that might entitle them to protection according to the view which this court has taken of the subject. But things, standing as they do before me; all the parties having acted in a manner that leads necessarily to the conclusion, that no *bona fide* revocation of the Berlin and Milan decrees has taken place; I must consider these cases as falling within the range of the British orders in council, and as such they are liable to condemnation.

Extract of a Letter from Mr. J. S. Smith, to the Secretary of State, dated London, July 10, 1811.

"ENCLOSED is a list of the American vessels that have been condemned at the late sittings of the court of admiralty. Two only of them have not yet been decided upon; they will, however, share the fate of the others. Vessels and cargoes will be sold, and the money deposited in court to await for twelve months the appeal of the captured, from which very little is, I fear, to be expected."

LIST OF VESSELS CONDEMNED. (Received in J. S. Smith's letter of July 10, 1811.)

Vessels.	Captains.	From whence.	Cargo.	Valuation. Vessel.	Cargo.
* Brig Fox,	Porter,	Boston,	Colonial produce, &c.	$ 10,000	$ 29,500
* Schooner Betsey,	Lindsey,	Marblehead,	Fish and oil, indigo and cotton,	8,500	21,500
* Mary,	Vickery,	Do.	Do. (green,)	2,000	1,800
* Polly,	Devereux,	Do.	Do. do.	2,000	1,800
* Ann,	Dolliber,	Do.	Do. do.	2,000	1,800
* Woodbridge,	Kimman,	Boston,	Fish, oil, &c.	3,500	7,000
* Ship Danube,	Pierce,	New York,	Cotton, rice, indigo, &c.	20,000	35,000
* Brig Matilda,	Lee,	Boston,	Cotton, fish, teas and nankeens,	12,000	25,000
* Eliza,	Corgie,	Philadelphia,	Cotton, peltry, &c.	8,000	38,000
* Ship Adolphus,	Brevout,	New York,	Tobacco, peltry, &c.	20,000	45,000
* Rebecca,	Tobey,	Do.	Sugar, coffee, &c.	15,000	30,000
* Schooner Two Sisters,	Bridges,	Marblehead,	Fish, (green)	2,000	1,800
* Brig Garland,	Haff,	New York,	Cotton, indigo, &c.	8,000	30,000
* Ship Betsey,	Millwood,	Norfolk,	Tobacco,	8,000	20,000
* Brig Ida,	Stacy,	Boston,	Fish, &c. (dry)	13,000	7,000
* Beauty,	Morris,	Philadelphia,	Cotton, colonial, &c.	17,000	20,000
* Ship Charleston Packet,	Weakes,	Do.	Cotton and Peltry,	10,000	25,000
† Andrew,	Coggins,	Bayonne,	Brandy, wine and silks,	12,000	25,000
† Rose in Bloom,	Aliot,	Do.	Do. do.	12,000	25,000
* Projector,	Brown,	New York,	Cotton, ivory, &c.	8,000	30,000
‡ Schooner Lidia,	Kelham,	Bordeaux,	Brandy, wine and silks,	3,500	14,000
‡ Ship Eleanor,	Kempton,	Savannah,	Cotton, rice and tobacco,	8,000	20,000
‡ Schooner Helen,	Elkins,	Marblehead,	Fish and oil,	3,500	4,000
‡ Brig Telemachus,	Berry,	Bordeaux,	Brandy, wine and silks,	4,000	6,000
‡ Schooner Lark,	Cloutman,	Marblehead,	Fish, (green)	2,000	1,800
‡ Ship Golden Fleece,	Silkman,	Charleston,	Cotton, rice, wax, &c.	25,000	45,000
|| Louisiana,	Richards,	New York,	Cotton, &c.	7,500	15,000
|| Brig Fox,	Gooday,	Do.	Cotton and indigo,	15,000	50,000
				$ 256,500	$ 576,000

* Condemned, June 18. † Condemned June 21. ‡ Condemned July 5. || Not yet decided, but must be like the others

Mr. J. S. Smith to the Secretary of State.

LONDON, JULY 22, 1811.

SIR,

I HAVE the honour to enclose a copy of Mr. Russell's letter to me of the 14th instant, which contains the agreeable intelligence of the release of three of the captured American vessels. I shall communicate its substance to this government without the formality of an official note, supposing that Mr. Foster is fully instructed on the subject of the orders in council, and that any thing I might under these circumstances offer would be attended with no advantage. I enclose also a letter from Mr. Russell of the 5th instant. I have the honour to be, &c.

(*Signed*) J. S. SMITH.

The honourable the Secretary of State.

☞ The papers that came in this letter make part of the enclosures in Mr. Monroe's letter to Mr. Foster of 17th October, and are printed with it, see page 380.

Extract of a Letter from John S. Smith Esq. to the Secretary of State of the United States, dated London, August 15, 1811.

"I HAVE now the honour to transmit to you lord Wellesley's answer to my note covering Mr. Russell's letter of the 14th July, and also another note from his lordship on the same subject, which I received last evening."

☞ The papers that came in this letter make part of the enclosures in Mr. Monroe's letter of the 17th October, to Mr. Foster, and are printed with it, see page 380.

CORRESPONDENCE OF JONATHAN RUSSELL, ESQUIRE.

Mr. Russell to Mr. Smith, Secretary of State.

PARIS, JANUARY 16, 1811.

SIR,

YOUR letter of the 8th of November, relative to the powers given by this government to its consuls in the United States, under its decree concerning licenses, was received by me on the 11th instant, and the next day I communicated its contents to the duke of Cadore in a note, a copy of which you will find enclosed. I remain, &c. &c.

(*Signed*) JONATHAN RUSSELL.

The Hon. ROBERT SMITH, *&c.*

Mr. Russell to the Duke of Cadore.

PARIS, JAN. 12, 1811.

SIR,

THE publick journals and letters from general Armstrong have announced to the American government an imperial decree, by which permission is to be granted to a stated number of American vessels, to import into France from certain ports of the United States, the articles therein specified, and to export in return such productions of the French empire as are also enumerated in said decree. This trade, it would appear, is to be carried on under the authority of imperial licenses, and can only be perfected by the act of the French consul residing within the jurisdiction of the United States at the specified ports.

The United States have no pretension of right to object to the operation of commercial regulations, strictly municipal, authorized by the French government to take effect within the limits of its own dominions; but I am instructed to state to you the inadmissibility, on the part of the United States, of such a consular superintendence as that which is contemplated by this decree respecting a trade to be carried on under licenses.

France cannot claim for her consuls, either by treaty or custom, such a superintendence. They can be permitted to enjoy such legitimate functions only as are sanctioned by publick law, or by the usage of nations growing out of the courtesy of independent states.

Besides, the decree in question professes to invest certain consuls with a power, which cannot be regularly exercised in the United States without the tacit permission of the American government; a permission that cannot be presumed, not only because it is contrary to usage, but because consuls thus acting would be exercising functions in the United States in virtue of French authority only, which the American government itself is not competent to authorize in any agents whatever.

If the construction given by the government of the United States to this decree be correct, the government of France should not for a moment mislead itself by a belief, that its commercial agents will be permitted to exercise the extraordinary power thus intended to be given to them.

I pray your excellency, &c. &c.

(*Signed*) JONATHAN RUSSELL.

His excellency the Duke of Cadore.

Mr. Russell to Mr. Smith, Secretary of State.

PARIS, JAN. 21, 1811.

SIR,

On the 18th instant I received a note dated that day from the duke of Cadore, in answer to the representation which I had made to him on the 12th of this month, relative to the exceptionable powers intended to be exercised by French consuls in the United States, in perfecting the contemplated trade under licenses.

You will perceive with satisfaction, that not only these powers, but the system itself, under which they were to have been exercised, have been abandoned.

I have the honour, &c. &c.

(*Signed*) JONATHAN RUSSELL.

Hon. Robert Smith, &c. &c.

[TRANSLATION.]

The Duke de Cadore to Mr. Russell.

PARIS, JAN. 18, 1811.

SIR,

I HAVE read with much attention your note of the 12th January, relative to the licenses intended to favour the commerce of the Americans in France. This system had been conceived before the revocation of the decrees of Berlin and Milan had been resolved upon. Now circumstances are changed by the resolution taken by the United States, to cause their flag and their independence to be respected, that which has been done before this last epoch, can no longer serve as a rule under actual circumstances.

Accept the assurances of my high consideration.

CHAMPAGNY,
Duke de Cadore.

Mr. Russell to the Duke of Bassano.

PARIS, APRIL 29, 1811.

SIR,

ENCOURAGED by the assurances which your excellency was pleased to give me in the conversation which I had the honour to hold with you yesterday, that the French government was disposed to promote, as far as might be in its power, the success of the mission of the special minister of the United States to the court of Denmark, I dare persuade myself that your excellency will feel no hesitation in returning such an answer to the following inquiries as shall place the facts to which they relate beyond the possibility of doubt or controversy.

1st. Did not the minister of foreign relations, by a despatch dated the 20th of April, 1808, authorize the consuls of France in the United States to deliver certificates of origin to vessels destined for neutral or allied ports, and prescribe the formalities required for such certificates?

2d. Was not the despatch of the duke of Cadore, of the 30th of August last, the first that was received in the

United States, either by the French minister or consul general there, prohibiting the further delivery by French consuls of certificates of origin, except to vessels destined to French ports?

3d. Was not this last mentioned despatch first received by general Turreau, on the 13th of November last, and for the first time communicated by him on that day to the French consuls? And were not these consuls in the official and authorized practice, until the said 13th of November, of furnishing certificates of origin to American vessels bound to neutral ports, or to ports belonging to the allies of France, and might not some of these consuls, by reason of their distance from the place of residence of general Turreau, have lawfully executed and delivered such certificates several days subsequent to that time?

These facts are directly established by the letter of general Turreau to Mr. Smith, of the 12th of November last, or necessarily inferred from the declaration contained in that letter, and I cannot permit myself to doubt that your excellency will readily repeat them in a form that shall claim the attention of the Danish government, and induce it to correct any errours which an ignorance or misapprehension of them may have occasioned in its proceedings against American property.

I rely with the more confidence on the frankness of your excellency in according the request now presented to you, as a refusal might operate the confiscation of much innocent property, and at the same time appear to falsify the lawful acts of the consuls and the official declaration of the minister of France in the United States.

I beg leave to renew to your excellency the assurance, &c.

(*Signed*) JONATHAN RUSSELL.

His Excellency the duke of Bassano.

Mr. Russell to Mr. Smith.

PARIS, MAY 27, 1811.

SIR,

By the first opportunity which presented itself after the admission of our vessels on the 4th of May, I communi-

cated this event to the American charge d'affairs at London, in hopes that it might be useful there. The enclosed is a copy of the note which I addressed to him on the occasion. I am, &c. &c.

(*Signed*) JONATHAN RUSSELL.

The honourable ROBERT SMITH,
Secretary of State of the United States.

Mr. Russell to Mr. J. S. Smith.

PARIS, MAY 10, 1811.

SIR,

I HAND you herewith a copy of a letter to me from his excellency the duke of Bassano, dated the 4th inst.* and enclosing a list of the American vessels whose cargoes have been admitted by order of the emperour.

As this list contains all the American vessels, except one only whose papers were mislaid, which have arrived spontaneously in the ports of France, since the first of November last, which had not already been admitted; the measure adopted by this government may perhaps be considered to be of a general character and a consequence of the actual relations between the two countries, growing out of the revocation of the Berlin and Milan decrees, so far as they violated the neutral rights of the United States.

I am, sir, with great consideration, &c.

(*Signed*) JONATHAN RUSSELL.

John S. SMITH, Esq. &c. &c.

Mr. Russell to the Secretary of State.

PARIS, JUNE 9, 1811.

SIR,

THE case of the New Orleans packet having apparently excited considerable interest, it may not be unacceptable

* See this copy in the enclosures of Mr. Russell's letter 15th July, which will be found in a subsequent part of this correspondence.

to you to receive a more particular account of it than I have hitherto transmitted.

This vessel, owned by Mr. Alexander Ruden, of New York, left that place on the 25th of July, with a clearance for Lisbon, but actually destined for Gibraltar. Her cargo, likewise the property of Mr. Ruden, consisted of 207 whole tierces, and 31 half tierces of rice, 330 bags of Surinam cocoa, 10 hogsheads of tobacco, 6 tierces of hams, 50 barrels of pork, 60 barrels of beef, 200 barrels of flour, 30 tierces of beans and 64 firkins of butter. On her passage to Gibraltar, she was boarded by an English frigate and an English schooner, and after a short detention allowed to proceed. On arriving at Gibraltar the 26th of August, Mr. Munroe, the supercargo, proceeded to sell the cargo and actually disposed of the flour, the beans and the butter, when about the 20th of September, a packet arrived there from England bringing newspapers containing the publication of the letter from the duke of Cadore of the 5th of August. On the receipt of this intelligence, Mr. Munroe immediately suspended his sales, and after having consulted with Mr. Hackley, the American consul at Cadiz, he determined to proceed with the remainder of his cargo to Bordeaux. He remained however at Gibraltar until the 22d of October, that he might not arrive in France before the 1st of November, the day on which the Berlin and Milan decrees were to cease to operate. He arrived in the Garonne, on the 14th of November, but by reason of his quarantine did not reach Bordeaux before the 3d of Dec. On the 5th of this month the director of the customs there seized the New Orleans packet and her cargo under the *Milan decrees* of the 23d Nov. and 17th December, 1807, expressly set forth, for having come from an English port and for having been visited by an English vessel of war. These facts having been stated to me by Mr. Munroe, or by Mr. Meyer, the American vice-consul at Bordeaux, and the principal one, that of the seizure under the Milan decrees, being established by the *procès verbal* put into my hands by Mr. Martini, one of the con-

signees of the cargo, I conceived it to be my duty not to suffer the transaction to pass unnoticed, and thereby permit it to grow into a violation of the engagements of this government. While I was considering the most proper mode of bringing the conduct of the custom-house officer at the port under the eyes of his superiors, I learnt of the arrival of the Essex at L'Orient. From the time at which this frigate was reported to have left the United States, I had no doubt that she had brought the proclamation of the President, announcing the revocation of the very decrees under which this precipitate seizure had been made. I could but think, therefore, that it was important to afford to this government an opportunity of disavowing the conduct of its officer, so incompatible with the engagements on which the President had in all probability reposed with confidence, in season to show that this confidence had not been mistimed or misplaced. To have waited for the receipt of the proclamation in order to make use of it for the liberation of the New Orleans packet, appeared to me a preposterous and unworthy course of proceeding, and to be nothing better than absurdly and basely employing the declaration of the President that the Berlin and Milan decrees *had been* revoked, as the means of obtaining their *revocation*. I believed it became me to take higher ground, and, without confining myself to the mode best calculated to recover the property, to pursue that which the dignity of the American government required.

A crisis in my opinion presented itself, which was to decide whether, the French edicts were retracted as a preliminary to the execution of our law, or whether by the non-performance of one party and the prompt performance of the other, the order in which these measures ought to stand was to be reversed, and the American government shuffled into the lead where national honour and the law required it to follow. Uncertain what would be the conduct of this government, but clear what it ought to be, I thought it politick to present briefly the honest construction of the terms in which the revocation of the decrees

was communicated on the 5th of August, that the conditions might not be tortured into a pretext for continuing them. I believed this to be the more necessary as no occasion hitherto occurred for offering such an interpretation. I likewise supposed it to be desirable to take from this government, by a concise statement of facts, the power of imputing neglect to the United States, in performing the act required of them, for the purpose of finding in this neglect a colour for again executing the decrees. These were my views in writing promptly and frankly on the occasion.

So acceptable indeed did I suppose it would be to the feelings of the American government, to obtain at least an explanation of an act ostensibly proving the continued operation of the decrees, previous to communicating the proclamation of the President, announcing their revocation, that, although I received this proclamation on the 13th of December, I deferred the communication of it to the duke of Cadore, until the 17th of that month; nor should I then have communicated it, had not an interview with him on the 15th, led me to believe that much time might be necessary to procure official reports from the custom house, relative to the seizure in question, and that until these reports were received, it would be impossible formally to explain or correct this proceeding. When, however, I declined, uninstructed as I was, incurring the responsibility of this protracted delay, and decided on communicating the proclamation before a satisfactory explanation was received, I took care to guard against any misconstruction, by explicitly declaring at the outset that this proclamation "had been issued alone on the ground that the revocation of the Berlin and Milan decrees did not depend on any condition previously to be performed by the United States."

The custom house officers at Bordeaux commenced unlading the New Orleans Packet on the 10th of December, and completed this work on the 20th of that month, as appears by their *proces verbal* of those dates. That of the

20th expressly declares that the confiscation of this property was to be pursued before the imperial council of prizes at Paris, according to the decrees of the 23d November and 17th of December, 1807; or, in other words, the decrees of Milan. The decree of the 23d of March, or the Rambouillet decree, is also mentioned; but as I wrote my note of the 10th of December, with a view only to the letter of the duke of Cadore announcing the revocation of the Berlin and Milan decrees, and as the *proces verbal* of the 5th appears to waive the application of the Rambouillet decree as unnecessary, I took no notice of it.

On Monday the 17th of December my remonstrance was submitted to a council of commerce, and referred by it to the director general of the customs for his report. From this time, all further proceedings against the New Orleans Packet were suspended. The papers were not transmitted to the council of prizes, nor a prosecution instituted before that tribunal for the confiscation of the property, as was professedly the intention of the officers concerned in the seizure. This prosecution was not only abandoned, but on the 9th of January the vessel and cargo were placed at the disposition of the consignees, on giving bond to pay the estimated amount, should it definitively be so decided. Nothing is now wanting to complete the liberation of the New Orleans Packet and her cargo but the cancelling of this bond.

It appears, therefore, that the remonstrance of the 10th of December arrested the proceeding complained of, before it had assumed a definitive character, or unequivocally become a breach of faith, and not only rescued the property from the seizure with which it had been visited, but, by procuring its admission, placed it in a situation more favourable than that of many other vessels and cargoes which continued to be holden in a kind of *morte-main* by the suspension of all proceedings with regard to them.

I have the honour to be, &c. &c.

(*Signed*) JONA. RUSSELL.

Hon. Secretary of State of the U. States.

P. S. July 5th. I have the satisfaction to announce to you that since writing the above, an order has been given to cancel the bond, and a letter just received from the commercial agent of the United States at Bordeaux, informs me that it is actually cancelled.

Mr. Russell to Mr. Monroe.

PARIS, JULY 14, 1811.

SIR,

I HAVE the honour to hand you herein, a copy of my note of the 8th instant to the duke of Bassano, claiming the release of twenty-three American seamen stated to have been pressed into the French service at Dantzic and in its vicinity. When I called on the duke on the 9th, he acknowledged the receipt of this note, and said that he should immediately write to the minister of marine on the subject. In the conversation which I had with him yesterday, he informed me that he had performed this engagement, and that the minister of marine had replied, that no American citizens had been pressed by his orders; that the city of Dantzic had been required to furnish a certain number of seamen, and was alone responsible for the manner in which it had complied with this requisition. The duke of Bassano also added, that my note had been laid before the emperour, and that his majesty had ordered, that on the arrival of the seamen from Dantzic at Antwerp, where they were expected yesterday, all that were American citizens should be discharged, and the city of Dantzic should be required to furnish others in their stead. From the solicitude which the duke of Bassano evidently discovered to get rid of the imputation of having pressed our citizens, I doubt not every thing will be done in this affair to remove all cause of complaint. I am, &c. &c.

(*Signed*) JONATHAN RUSSELL.

The Secretary of State of the U. States.

Mr. Russell to the Duke of Bassano.

PARIS, JULY 8, 1811.

SIR,

I HAVE just received information, by a letter from J. W. Zubre, Esq. who holds a commission as consul of the United States at Stettin, that on the 17th ult. *twenty-three* American seamen passed that place, under escort of a French guard, to be put on board the ships of war at Antwerp. It is represented to me that these seamen had been forcibly pressed, at Dantzick and other places on the Baltick, by order of his excellency the minister of marine. In confirmation of this fact, I have a letter from captain Charles Payne, of the American ship Atlantic, taken into Dantzic by a French cruiser, stating that twelve of his men, including his mate, had been pressed in this way at that place. These twelve men probably constitute a part of the twenty-three above mentioned.

It is my duty to engage your excellency to cause an inquiry to be had, to the competent authority, into these facts, and to procure the release of all the seamen above mentioned who are citizens of the United States.

I pray your excellency to accept, &c.

(*Signed*) JONATHAN RUSSELL.

His Excellency the Duke of Bassano.

Extract of a Letter from Mr. Russell to the Secretary of State of the United States, dated Paris, July 15, 1811.

"ON the 5th of that month [May] I received a note [No. 1] from the duke of Bassano, dated the 4th, containing a list of sixteen American vessels whose cargoes had been admitted by order of the emperour. I immediately transmitted to you several copies of this communication, and I gave you on the 8th such an account [No. 2] of the admitted cases, as might aid you in forming a correct estimate of the political value of the measure adopted in their favour.

Although I was fully impressed with the importance of an early decision in favour of the captured vessels, none of which had been included in the list above mentioned, yet I deemed it proper to wait a few days before I made an application upon the subject. By this delay I gave the government here an opportunity of obtaining the necessary information concerning these cases, and of pursuing spontaneously the course which the relations between the two countries appeared to require. On the 11th, however, having learnt at the council of prizes that no new order had been received there, judged it to be my duty no longer to remain silent, lest this government should erroneously suppose that what had been done was completely satisfactory to the United States, and, construing my silence into an acquiescence in this opinion, neglect to do more. I therefore on that day addressed to the duke of Bassano my note [No. 3] with a list of American vessels captured since the 1st of November. On the 16th, I learnt that he had laid this note, with a general report on it, before the emperour, but that his majesty declined taking any decision with regard to it, before it had been submitted to a council of commerce. Unfortunately, this council did not meet before the departure of the emperour for Cherbourg; and during his absence, and the festivals which succeeded it, there was no assemblage of this body.

Immediately on receiving the communication of the duke of Bassano of the 4th of May, I addressed him a note [No. 4] concerning the brig Good Intent, detained at St. Andero. Although this vessel had in fact been captured, yet, from the peculiar circumstances of the case, I hoped that she would be placed on the same footing as those which had been admitted. The answer [No. 5] which was returned by the duke of Bassano, dated the 25th and received the 28th, announced to me, however, that this affair must be carried before the council of prizes. Wishing to rescue this case from this inauspicious mode of proceeding, I again addressed him in relation to it, in a note [No. 6] on the 2d of June. If I could not obtain at once the restoration of

this vessel, it was desirable, at least, that she should be admitted to the benefit of the general measure, which I insinuated might be taken in favour of the captured class mentioned in my note of the 11th of May.

As in this note I have stated the case of the Good Intent to be analogous to those of the Hare and the John, it may be proper to explain to you both the points of resemblance and diversity, in order to reconcile this note with my declaration, that no captured vessel was on the list of the 4th of May. The cases agree in the destination to places under the authority of France, and in the arrestation by launches in the service of the French government; they differ in the Hare and John having already, before they were taken, arrived at the port, and within the territorial jurisdiction of the country to which they were bound, and the Good Intent having been taken without such jurisdiction, and conducted to a port to which she was not destined. The taking possession of the Hare, and the John, may be considered then as a seizure in port, and that of the Good Intent as a capture on the high seas.

On perceiving that the schooner Friendship was not named in the list of admitted vessels, I caused inquiry to be made at the custom house concerning the cause of this omission. It was stated that her papers had been mislaid, but that search was making for them, and that, when found, a report would immediately be made. I waited for this report until the 18th of May, but finding it had not been made, I conceived it might be useful, in order to accelerate it, and to render complete the admission of the entire class to which this case belonged, to attract towards the Friendship the attention of the minister of foreign relations. With this view, I presented to him my note [No. 7] of that date.

Having reflected much on the condition, attached to the admission of the American cargoes, to export two thirds of the proceeds in silks, and being persuaded that the tendency of this restriction, added to the dangers of a vigilant blockade, and to the exactions of an excessive tariff,

was to annihilate all commercial intercourse between the two countries, I believed it would not be improper for me to offer to this government a few remarks on the subject. This I was the more inclined to do, as it was to be apprehended that this condition was not imposed as an expedient, for temporary purposes only, but that it was intended to be continued as the essential part of a permanent system. In a note, therefore, of the 10th of June, [No. 8] I suggested to the duke of Bassano the evils which might be expected naturally to result from the operation of this restriction on exports. It is indeed apparent, that a trade that has to run the gauntlet of a British blockade, and is crushed with extravagant duties inwards, and shackled with this singular restriction outwards, cannot continue.

On the 14th of June, Mr. Hamilton, of the John Adams, reached Paris, and informed me that this vessel had arrived at Cherbourg. Unwilling to close my despatches by her, without being able to communicate something of a more definite and satisfactory character, than any thing which had hitherto transpired, I immediately called at the office of foreign relations, but the minister being at St. Cloud, I was obliged to postpone the interview which I sought, until the Tuesday following. At this interview I stated to him the arrival of the frigate, and my solicitude to transmit by her to the United States, some *act* of his government, justifying the expectation with which the important law which she had brought hither, had undoubtedly been passed. I urged particularly a reply to my note of the 11th of May, relative to the captured vessels, and observed, that although the mere pecuniary value of this property might not be great, yet in a political point of view, its immediate liberation was of the utmost consequence. I intimated to him at the same time, that my anxiety was such to communicate by the John Adams, a decision on these captures to the American government, that I should detain this vessel until I had received it. He replied that his sentiments accorded perfectly with mine in this matter, and ascribed the delay which had taken place to the same

causes as I have assigned. He assured me, however, that he would immediately occupy himself again with this business, and unless a council of commerce should be holden within a few days, he would make a *special* report to the emperour, and endeavour to obtain a decision from him in person. He approved my intention of detaining the frigate, and engaged to do whatever might depend on him, to enable me to despatch her with satisfaction. He added that he had already made inquiries of the competent authorities, concerning the Good Intent and the Friendship, and that when their reports should be received, he would do whatever the circumstances of the cases might warrant.

I now suggested to him the evils which resulted to our commercial intercourse with France, from the great uncertainty which attended it, owing to the total want on their part of clear and general regulations. After making a few observations in explanation of this remark, I requested to know if he would have any communication to make to me on the subject previous to the sailing of the John Adams. I was led to make this inquiry from information which I had indirectly obtained, that several resolutions for the regulation of our trade, had been definitively decreed. He replied that no such communication would be made here, but that Mr. Serrurier would be fully instructed on this head. The resolutions just mentioned, as far as I have learnt, are, to admit the produce of the United States (except sugar) without special permits or licenses; to admit coffee, sugar and other colonial produce, with such permits or licenses, and to prohibit every thing arriving from Great Britain, or places under her control.

He again mentioned the discovery of the regulation of the year twelve, authorizing the certificates of origin for French ports only, or for ports in possession of the French armies, but declared that after the most thorough examination of the archives of his department, no document or record had been found permitting these certificates to be granted for the ports of neutral or allied powers. He again, however, professed a favourable disposition towards

our negotiations in Denmark, and said, "le succés de la mission de Mons. Erving s'accorderait parfaitement avec nos sentimens, et ne contrairerait nullement notre politique."

With the view above stated, I detained the John Adams until the 9th instant. I had from time to time, in the mean while, informed myself of the proceedings with regard to the captured vessels, and ascertained that in fact, the duke of Bassano had made a report in relation to them. The emperour it appears, however, still wished for the decision of his council of commerce, and the report was laid before them on the first of this month, being the first time they had assembled since the date of my letter of the 11th May. I waited in daily expectation of hearing the result of their deliberations, until the 9th instant, when, conceiving sufficient time had been allowed for receiving it, and not feeling perfectly at my ease under the responsibility I was incurring for the unauthorized detention of the John Adams, I determined to learn from the duke of Bassano, in person, what I might reasonably expect in the matter. I accordingly procured an interview with him on the day last mentioned. I reminded him of what had passed at our conference on the 18th ultimo, and told him that in consequence thereof, I had kept the ship, but that I could not with propriety detain her longer, without the evident prospect of obtaining from the French government the release of the captured vessels. He expressed a conviction of the justice of my observations, and assured me that he was in hourly expectation of receiving a decision on the captured cases, and hoped that the John Adams might not be permitted to return without it. I thereupon consented to keep my despatches open until the 13th, assuring him that I could not take upon myself to protract the detention of the John Adams beyond that period.

On the 13th, about one o'clock, I received a note from the duke of Bassano, of which the enclosed [No. 9] is a copy. I waited upon him immediately, and was informed that the Two Brothers, the Good Intent, and the Star,

three of the captured vessels, had been liberated. He added that no unnecessary delay would be allowed in deciding upon the whole.

I shall despatch Mr. Hamilton this day, and I shall send with him a messenger to be landed on the other side, who will carry to Mr. Smith an account [No. 10*] of what has been done here, to be used by him as he shall judge proper."

No. 1.

[TRANSLATION.]

The Duke of Bassano to Mr. Russell.

PARIS, MAY 4, 1811.

SIR,

I HASTEN to announce to you that his majesty the emperour has ordered his minister of finance to authorize the admission of the American cargoes which had been provisionally placed in deposit on their arrival in France.

I have the honour to send to you a list of the vessels to which these cargoes belong; they will have to export the amount of them in national merchandize, of which the two thirds will be in silks.

I have not lost a moment in communicating to you a measure perfectly in accord with the sentiments of union and of friendship which exist between the two powers.

Accept, sir, the assurance of my high consideration.

(*Signed*) DUC DE BASSANO.

No. 2.

Mr. Russell to the Secretary of State.

PARIS, MAY 8, 1811.

SIR,

I HAD the honour to address to you on the 6th instant, by various ports, several copies of the note of the duke of

* See the letter from Mr. Russell to Mr. Smith, charge d'affaires, &c. &c. dated the 14th July, enclosed in Mr. Monroe's letter of 17th October, to Mr. Foster.

Bassano to me on the 4th, containing a list of the vessels, the admission of whose cargoes had been authorized by the emperour.

This list comprises all the American vessels which had arrived, without capture, in the ports of France or the kingdom of Italy, since the first of November, and which had not already been admitted, excepting the schooner Friendship.

The papers of the Friendship had been mislaid at the custom house, and no report of her case made to the emperour.

As the New Orleans packet and her cargo had been given up *on bond* in January last, there can be no longer any question with regard to their admission; but to make their liberation complete, the bond should be cancelled.

All the vessels mentioned in the list, excepting the Grace Ann Greene, had come direct from the United States, without having done or submitted to any known act, which could have subjected them to the operation of the Berlin and Milan decrees, had these decrees continued in force.

The Grace Ann Greene stopped at Gibraltar, remained many days there, and in proceeding thence to Marseilles was captured by an English vessel of war. The captain of the Grace Ann Greene with a few of his people rose upon the British prize-crew, retook his vessel from them and carried her and them into the port to which he was bound.

The captain considered this re-capture of his vessel as an act of resistance to the British orders in council and as exempting his property from the operation of French decrees professedly issued in retaliation of those orders. He likewise made a merit of delivering to this government nine of its enemies to be treated as prisoners of war.

His vessel was liberated in December and his cargo the beginning of April last, and there is some difficulty in precisely ascertaining whether this liberation was predicated on the general revocation of the Berlin and Milan decrees, or on a special exemption from them owing to the particular circumstances of the case.

It is somewhat singular this vessel was placed on the list of the 4th instant, when she had been liberated and her cargo admitted so long before.

It may not be improper to remark that no American vessel, captured since the 1st of November, has yet been released or had a trial.

These are the explanations which belong to the measure I had the honour to communicate to you on the 6th inst. and may afford some assistance in forming a just appreciation of its extent and character. I have the honour, &c.

(*Signed*) JONA. RUSSELL.

No. 3.

Mr. Russell to the Duke of Bassano.

PARIS, MAY 11, 1811.

SIR,

I HAVE the honour to present to your excellency a list of the American vessels which, according to the information I have obtained, have been captured by French privateers since the 1st of November last, and brought into the ports of France. All proceedings in relation to these vessels have been suspended in the council of prizes, with the same view, no doubt, as the proceedings in the custom house had been deferred with regard to those which had arrived voluntarily. The friendly admission of the latter encourages me to hope that such of the former at least as were bound to French ports, or to the ports of the allies of France, or to the United States, especially those in ballast, will be immediately released, and that orders will be given to bring on the trials of the remainder, should such a course be judged indispensable, without any unnecessary delay.

The measure for which I now ask, being in perfect accord with the friendly sentiments which prevail between the two countries, I persuade myself will obtain the early assent of his majesty. I pray your excellency, &c.

(*Signed*) JONATHAN RUSSELL.

The Duke of BASSANO, *&c. &c.*

LIST OF AMERICAN VESSELS

Taken by French Privateers, since the 1st of November, 1810, and carried into the ports of France.

Vessels.	Where from.	Where bound.	Cargoes.	When taken.	Where brought.
Robinson Ova,	Norfolk,	London,	Tobacco, cotton and staves,	21st December, 1810,	Dunkirk.
Mary Ann,	Charleston,	Id.	Cotton and rice,	3d March, 1811,	Id.
General Eaton,	London,	Charleston,	In ballast,	6th December, 1811,	Calais.
Neptune,	Id.	Id.	Id.	7th do.	Dieppe.
Clio,	Id.	Philadelphia,	English manufactures,	Id.	Vessel lost off Trequier, part of cargo saved.
Two Brothers,	Boston,	St. Malo,	Cotton, indigo, potashes, cod-fish, fish-oil and dye-wood.	20th Id.	St. Malo. N. B. This vessel was taken within the territorial jurisdiction of France.
Star,	Salem,	Naples,	Coffee, indigo, fish, dye-wood, &c.	2d February, 1811,	Marseilles.
Zebra,	Boston,	Tarragona,	40,000 staves,	27th January, do.	Do.

No. 4.

Mr. Russell to the Duke of Bassano.

PARIS, MAY 6, 1811.

SIR,

I FEEL it my duty to represent to your excellency, that the American brig Good Intent, from Marblehead, with a cargo of oil, fish, cocoa and staves, bound to Bilboa, was captured in December last by an armed launch in the service of the French government, and carried into Santander. Mr. J. P. Rattier, the consul of his majesty the emperour at that place, has taken possession of the cargo, and sold that part which was perishable, retaining in his hands the proceeds, and placing in depot the articles unsold, until he shall receive the superior orders of his government.

The present flattering appearance that the relations between France and the United States will be preserved on the most amicable footing, encourages me to hope that the case of the Good Intent, after the long detention that has occurred, will attract the early attention of the French government, and that the property will be restored to the American owner.

I pray your excellency to accept the assurances of my high consideration.

(*Signed*) JONA. RUSSELL.

His Excellency the Duke of BASSANO,
Minister of Exterior Relations.

No. 5.

[TRANSLATION.]

The Duke de Bassano to Mr. Russell.

PARIS, MAY 25, 1811.

SIR,

THE object of the letter you have done me the honour to address to me on the 7th of this month, was to remonstrate against the sequestration of the American ship the

"Good Intent," which had been carried into St. Andero by a French vessel.

The minister of marine, to whom I hastened to write on this subject, has just answered me, that the case is carried before the council of prizes, which is alone competent to decide on the validity of the capture. He adds, that it is before that tribunal, that the owners of the Good Intent ought to be prepared to establish their rights, and that he will have no other agency in this affair than to cause to be executed the decision which shall be made.

Accept, sir, the assurance of my high consideration.

(*Signed*) LE DUC DE BASSANO.

Mr. RUSSELL, *Charge des affaires of the United States.*

No. 6.

Mr. Russell to the Duke of Bassano.

PARIS, JUNE 2, 1811.

SIR,

BY the letter which your excellency did me the honour to address to me on the 25th ultimo, I perceive that the minister of marine declines interfering in the case of the American brig the Good Intent, except to enforce the decision which the council of prizes may render.

As the Good Intent was captured bound to a port in the possession of the French armies, by a launch in the service of the French government, I had persuaded myself that she would not be treated as a prize, but that she would be restored like the John and the Hare, at Civita Vecchia, without the delay of a formal trial. It was in this expectation, that I omitted to place her on the list of American vessels captured since the 1st of November last, which I had the honour to address to your excellency, in my note of the 11th ultimo. If his majesty the emperour should find it improper, upon being made acquainted with the circumstances of this case, to distinguish it from cases of ordinary capture, I presume there will be no objection to extending to it the benefit of any general decision which may be taken in regard to those mentioned in the list aforesaid.

I pray your excellency to accept the assurance of my high consideration.

(*Signed*) JONA. RUSSELL.

His Excellency the Duke of BASSANO.

No. 7.

Mr. Russell to the Duke of Bassano.

PARIS, MAY 18, 1811.

SIR,

ON examining the list of vessels whose cargoes have been admitted, and which your excellency did me the honour to enclose to me in a note dated the 4th of this month, I have discovered that the schooner Friendship has been omitted.

This vessel, as I am informed, arrived at Bordeaux on the 6th of December last, with a cargo of coffee, which from long detention has suffered considerable damage. As there is no circumstance, within my knowledge, to distinguish the cargo of this vessel from those which have been admitted, I doubt not that her case will be inquired after, and that she will be placed upon the same footing as the others.

I pray your excellency to accept the assurance of my highest consideration.

(*Signed*) JONA. RUSSELL.

His Excellency the Duke of BASSANO,
Minister of Exterior Relations.

No. 8.

Mr. Russell to the Duke of Bassano.

PARIS, JUNE 10, 1811.

SIR,

I CONCEIVE it to be my duty to represent to your excellency, that the condition, attached to the admission of American property in France, to export two thirds of the amount in silks, is attended with great inconvenience and loss to the American merchant.

A general requisition to export the neat proceeds of imported cargoes in the produce and manufactures of the French empire, would have been so obviously intended to favour its industry and to prevent any indirect advantage resulting to its enemy by the remittance of exchange, that the right and policy of the measure would have been universally acknowledged. The American merchant, in this case, permitted to select from the various and abundant productions of the arts and agriculture of France, those articles which the habits and tastes of the American people demanded, might freely and advantageously have exercised his commercial skill for the advancement of his interests, and hoped, from the profit on his investments here, to obtain an indemnity for the losses on his outward voyage.

The condition, however, imposed on him to receive two-thirds of these investments in a *particular article*, takes from him the faculty of profiting of his experience and information, either in bargaining for his purchases, or in adapting them to the wants of the market for which they are intended. The holder of this article becomes, by this requisition, the master not only of the price, but of the kind and quality of his merchandise, and his interest will strongly incite him to abuse the power which he feels. He knows full well that the purchaser cannot dispense with this merchandise, and that sooner or later he must accede to the terms on which it is offered. Should, indeed, the American merchant, from his repugnance to invest his funds in an article forced upon him, loaded with the arbitrary exactions of the seller, refuse for a while to receive it, yet, beholding these funds inactive and wasting on his hands, and his vessel perishing in a foreign port, he must eventually yield to the duress which he suffers.

Such are some of the evils, to which the condition in question will expose the American merchant in this country. In the United States, it will be by him still more severely felt.

The overstock of the article forced by this condition on the market there, exceeding the consumption, must neces-

sarily become a drug; and the American merchant, after having taken it here against his will, and paid for it more than its ordinary value, will be compelled in the United States to keep it on hand, or to sacrifice it for the most it will bring. Thus, alternately obliged to purchase and to sell under unfavourable circumstances, he will have to add to the losses of the outward voyage the losses on the returns, and the sum of them both may amount to his ruin.

These disasters of the merchant must inevitably impair, if not extinquish the commercial intercourse between the two countries. This intercourse, exposed to unusual perils, and *oppressed with unprecedented burdens*, has already nothing in the voyage hither to tempt the enterprise of mercantile men; and should it be embarrassed with the restrictions of this condition, rendering the homeward voyage also unprofitable, it must undoubtedly cease. It is in vain to expect the continuance of any branch of trade, which, in all its relations, is attended with loss to those who are engaged in it.

I have taken the liberty respectfully to submit these observations to your excellency, not without a hope, that a consideration of them may lead to a remedy of the evils which they suggest.

I pray your excellency, &c.

(*Signed*) JONA. RUSSELL.

His Excellency the Duke Bassano.

No. 9.

[TRANSLATION.]

The minister of foreign relations has the honour to inform Mr. Russell, charge des affaires of the United States, that he will be happy to receive him at any time today before 2 o'clock, if it should be convenient to him.

He begs him to accept the assurance of his perfect consideration.

Paris, July 13, 1811.

CORRESPONDENCE OF GEORGE W. ERVING, ESQUIRE.

Mr. Erving to the Secretary of State.

COPENHAGEN, JUNE 23, 1811.

SIR,

HAVING had my audience of his Danish majesty on the 5th instant, on the 6th I addressed to Mr. de Rosenkrantz, minister of state for foreign affairs, a note upon the subject of the American cases generally, then under adjudication, by appeal before the high court of admiralty, and on the 7th, a separate note respecting the cases of capture under British convoy. Copy of those two notes, [A and B] and the lists to which they refer, I have the honour herewith to submit. In an interview which I had with the minister on the 8th instant, in the course of conversation he told me, that, as the matter of both those notes was very important, and the latter particularly required a great deal of consideration, he must have them perfectly translated into the Danish language, to be laid before the king; therefore I must not expect very prompt replies, but in the mean time that he was sincerely desirous of doing, and would do every thing in his power to forward our business towards a favourable termination. I suppose that the convoy question may be referred to his majesty's chancery, which is the highest tribunal, and that by which the king is accustomed to declare his will in matters which he does not submit to, or chooses to take out of, the ordinary course of proceedings.

Having now fully informed myself of the business intrusted to me, it is with very great satisfaction that I find myself authorized to state to you, that the evils which our commerce has suffered here, though very considerable, yet have not been quite so extensive as has been generally believed; and you will learn also with very particular pleasure that the depredations of the Danish privateers have been discontinued since my arrival. I have prepared lists

and statements with a view to place the whole matter before you, in the most particular, and at the same time most distinct and simple form. These will be completed when I have received returns from Norway and from Holstein, respecting the fate of some few of the cases which occurred in the year 1809. In the mean time I can state the results to be nearly thus:

Captures in 1809,	38.
Condemnations,	12.
Captures in Norway in the year 1810,	36.

Of which are pending in the high court 8, and not one has been finally condemned.

Captures in Holstein, Sleswick and the Danish islands in 1810,	68.
Condemned,	22.
Pending,	6.
Convoy cases, year 1810,	18.
Condemned,	8.
Pending,	10.

Total amount of captures in 1809 and 1810, 160.

Total condemnations, 42, of which 16 were vessels which had broken the embargo or non-intercourse, or are otherwise not genuine American cases.

Pending cases, including 10 convoy cases, 24.

In this year, the only two vessels which reached these seas from the United States previous to my arrival, were taken (in the beginning of April) and condemned in Norway; two others just about the time of my arrival were carried in and are now under trial there; but since the 11th instant, upwards of forty vessels from the United States have passed through the sound, and gone up the Baltick, and more or less are every day passing without interruption. The papers of some few have been slightly examined in the subordinate court of Elsineur. There have been tried in the lower prize court of this place, and acquitted without delay, two or three, and one of them with damages against the captors, being the first case in which damages have been given at Copenhagen. Finally,

of the 14 cases (not convoy cases) which were pending before the high court on my arrival, four have been acquitted; and though the privateersmen and all concerned with them (and the ramifications of their business are immense) have made every effort to bring on condemnations, yet the tribunal, otherwise perhaps well disposed to proceed, has been steadily held back by the government; and I see the best reason to hope that at least eight of the remaining ten cases will be acquitted. As to the convoy cases my confidence is not so strong, yet even of them I do not despair; the ground on which they stand I am aware is not perfectly solid, yet I did not feel myself authorized to abandon them, and therefore have taken up an argument, which may be difficult, but which I shall go as far as possible in maintaining.

I have had several interviews with Mr. de Rosenkrantz subsequent to that last mentioned, and have acquired additional reasons to hope for the king's perseverance in the change of system which has so happily taken place, but he discourages any expectation of indemnification for the injuries sustained by our commerce under that which now appears to be relinquished. Yesterday he told me very explicitly that against the definitive decisions of the high court I must not hope for any redress; he trusted that for the future we should not have any cause to complain, but for the past there was no remedy. I thought it not opportune to enter much into the matter at that time, and therefore contented myself with some general protestations against his doctrines.

I cannot close this letter without acknowledging the very great services of Mr. Isaachson, our consul at Christiansand; you will observe, sir, in the lists which I shall send to you, that of thirty-six vessels carried into the ports of Norway in the year 1810, only four were condemned in the inferiour courts of that district; this has been wholly owing to the unwearied exertions of Mr. Isaachson. He found our people in the most distressed situation; entirely friendless, in the hands of, surrounded by, and ready to be sacri-

ficed to the rapacity of, the privateersmen and their connections; he volunteered in their service, he boldly opposed himself to the host of their oppressors; he made each man's cause his own; he provided for every man's wants; in short, his intrepidity and independence, and disinterestedness of character, his constant zeal and industry, saved them from ruin, and with gratitude very honourable to themselves, they never cease to praise him.

With the most perfect respect, &c. &c.

GEORGE W. ERVING.

To the honourable Secretary of State.

(A.)

Mr. Erving to Mr. de Rosenkrantz.

COPENHAGEN, JUNE 6, 1811.

SIR,

It was under the fullest conviction and the strongest sense of the injustice which has prevailed in the sentences of the Danish tribunals on cases of American capture, as well as an anxiety immediately to arrest the course of those excesses on the part of the privateers too much countenanced by such decisions, which are laying waste the property of American citizens, that I ventured on the 31st ult. and on the 2d instant, to request that the proceedings of the tribunals should be suspended, until having had the honour of presenting my credentials to his majesty, I should be enabled to enter into regular communication with your excellency.

In this first formal address to you upon the subject of the reclamations with which I am charged, it is incumbent upon me to express the extreme surprise and concern with which my government has seen the property of its innocent citizens, whilst employed in fair and legal commerce, ravaged by the cruisers of a nation between which and the United States the most perfect harmony has always hitherto subsisted, against which they have never heretofore found any cause of dispute or any ground of offence, and to which they felt themselves attached not merely by the or-

dinary ties of reciprocal good offices, but by a common interest in the defence and preservation of those neutral rights, which have so much contributed to the political importance of Denmark, by which her prosperity has been so greatly promoted, and which formerly foremost amongst nations she has so magnanimously and successfully contended for. But at the same time that I make this reflection so necessary and so obvious, I must also say, that the President retains an entire confidence in the personal good dispositions of his majesty, in his steady adherence to those great and liberal principles and to those just political views which so eminently distinguish his character, and the President assures himself that it is only necessary that his majesty should be made acquainted with the nature and extent of the injuries which the rights of the United States, as a neutral nation, and the property of their citizens, have suffered and are still exposed to, to induce him to apply an immediate and an adequate remedy to the evils complained of. His majesty on his part cannot fail to feel that confidence in the correct views and honourable intentions of the United States, which their uniform conduct in all their negotiations and transactions with other powers has so justly entitled them to; nor can he be indifferent when the friendly relations and mutual good dispositions which have hitherto so invariably subsisted between the two countries, and which it is so much the interest of each to maintain, are in question.

Animated by the most just and friendly dispositions, the American government, whilst it resists all aggressions on its neutral rights, and will never cease to oppose all violations of the publick law which may offend them, solicitously avoids any interference with the rights of others, nor will it admit, under cover of its name and authority, any practices which may have that tendency; it has therefore seen with the most indignant sensibility various instances of the prostitution of its flag by unprincipled adventurers in Europe, and I have it in express command to assure his majesty of its determination to discountenance by all practicable means such proceedings, and of its sincere disposi-

tion to co-operate with his majesty in detecting and punishing all similar frauds and impostures.

Your excellency will perceive in the frankness of these observations, and in the loyalty of this declaration, the true character of the American government; they will also I trust strengthen my title to that confidence on the part of his majesty which it is at once my duty and my desire to merit.

To carry into effect this twofold purpose of my government; to protect the property of its citizens, and to cast off from any reliance on its protection, those spurious and fraudulent cases, (if any such actually exist) which have injured the character of the American trade and jeopardized the interests of American citizens, I will enter into candid explanations with your excellency upon all the questions which may arise on the cases now pending; so as to establish the bona fide character of the vessels under adjudication, and thus remove from before his majesty every obstacle to that course of justice which he is always desirous to observe, and to a manifestation of the amicable and conciliatory feelings towards the United States which it is confided prevail in his mind.

I have the honour herewith to transmit to your excellency two lists, containing together twenty-eight cases of American capture, being those now actually pending before the supreme court of admiralty on appeal, or waiting for his majesty's decision. The list No. 1, comprising twelve of the whole number, are "convoy cases," that is, cases in which no question has been raised as to the genuine character of the vessels, but wherein the decision rests upon the clause "d," of the 11th article of the royal instructions of March 10th, 1810, declaring as a cause of condemnation—"the making use of English convoy." I stated to your excellency in conversation, as well as in the note which I took the liberty of addressing to you on the 2d instant, that it would be my duty to object to the principle assumed in that declaration. I trust that I shall be able to show you that it is entirely novel, that it has not any

foundation in publick law, and that it has not even such sanction as might be supposed derivable from the practice of other nations. Certainly much effort will not be necessary to prove that it is entirely repugnant to the broad ground of neutral right, formerly occupied and firmly maintained by Denmark herself; but upon this point I propose forthwith to address to your excellency a separate note; in the present, I will confine myself to observations on the cases (16 in number) mentioned in the list No. 2.

With respect to the "Egeria," captain Law, I send to your excellency a separate note in reply to that with which you honoured me on the 2d instant. That case must now stand so perfectly clear, that I am sure I need not trouble you with any additional remark on it.

In the two cases, viz. the "Nimrod" and "Richmond," the sole objection made is to the French certificates of origin which they had on board; these are presumed to be forgeries, upon a supposition that at the time they bear date, the French consuls in the United States had ceased to issue such certificates. Now the cases must be relieved from that objection, and the question which has been raised upon French certificates of origin be put at rest for ever, by the facts which appear in the correspondence between the secretary of state of the United States and general Turreau the French minister, copy of which I have herewith the honour to enclose [No. 3.] Your excellency will observe that in general Turreau's letter of December 12th, replying to the secretary's letter of November 28th, it is expressly and unequivocally stated that the French consuls in America "had always delivered certificates of origin to American vessels for the ports of France," and had also "*delivered them to vessels destined to neutral or allied ports*" by the authority of the French government; and that it was only by the United States ship "Hornet," which arrived in America on the *13th of November*, 1810, that the French consuls received orders to discontinue the granting of such certificates to vessels bound to other ports than those of France. Your excellency will also perceive

in the secretary of state's reply of December 18th, how important this explanation was deemed by the President in its application to the vessels of the United States taken by Danish cruisers upon the ground of their having on board such certificates.

Of the thirteen remaining cases in the list No. 2, eight have been acquitted in the subordinate courts of Norway and at Flensburg, and are now depending in the high court on the appeals of the captors; and five have been condemned in the subordinate courts and are now depending in the high court on the appeals of the American masters.

I annex to this note a summary of each class (A and B,) showing the nature of the questions and objections which have arisen upon the several cases, and I do confide, that if your excellency will be pleased to lay it before the king, that his majesty will become immediately sensible to the undue proceedings of his tribunals, and will readily apply his royal authority to administer prompt and efficacious redress for the injuries and vexations which the commerce of the United States and its citizens are suffering.

I can only add, that in all cases where any doubt shall arise respecting the authenticity of American documents, I have it fully in my power to establish the truth: and I beg leave to re-assure your excellency that on this point, as on every other, you shall not experience any proceedings on my part, which will not conform to the strict honour and good faith, to the just and liberal sentiments which characterize, and to the friendly and conciliatory dispositions towards his majesty which influence the government which I have the honour to represent.

I offer to your excellency, assurances of the very distinguished respect and consideration with which I am always, &c.

G. W. ERVING.

To Mr. de Rosenkrantz.

(B.)

Mr. Erving to M. de Rosenkrantz.

COPENHAGEN, JUNE 7, 1811.

SIR,

WITH my note of yesterday, I transmitted to your excellency a list [No. 1.] of the "convoy cases," twelve in number: the two last in that list are not depending on appeal before the high court, as is mentioned in a memorandum opposite to their names; the first eight vessels of the remaining ten were bound immediately from Petersburg and Cronstadt to the United States; they had all paid their sound dues, and several of them had been examined before the Danish marine tribunals on entering the Baltic—and they were all arrested in going out by a British force, and compelled to join convoy. When that convoy was attacked by his majesty's gun brigs, the Americans, not conscious of any illegality in the nature of their voyages, or of any irregularity in their own conduct, made not any efforts to escape: they were captured and brought into port. No question has been made as to the genuine American character of the vessels in question, but they have been condemned under the authority of the article "d" in the 11th clause of his majesty's instructions for privateers, issued on the 10th of March, 1810, which declares to be good prize "all vessels which have made use of British convoy, either in the Atlantic or the Baltic." At the time of this declaration, these vessels were in Russia, on the point of sailing, and wholly ignorant of it.

This is a brief history of the "convoy cases." It is now my duty to protest against the principle, assumed in the instruction referred to, upon which they have been condemned. I shall endeavour to show to your excellency, that it is wholly new; not founded in, or supported by, any reasoning to be derived from the law of nations—not even countenanced by precedents—and as wholly repugnant to the doctrines heretofore held by Denmark itself, as it is to the rights and to the interests of the United States.

That the belligerent has a right to ascertain the neutrality of vessels which he may meet with at sea, and therefore, under certain suspicious circumstances, to bring such vessels into port for examination, I am not disposed to deny: it may also be allowed that the being found under enemy's convoy does afford such reasonable ground of suspicion, against the vessels so found, as to authorize their being sent into port for examination. But this is the full extent of the belligerent right on this point: the examination had, and the vessels being found bona fide neutral, must be acquitted. To say that the neutral shall be condemned on the *mere fact* that he was found under enemy's convoy, is to impose upon him a necessity of sailing without protection even against his own separate enemies; for the case might well happen, indeed has happened, that though neutral with regard to the belligerent powers, he has had an enemy against whom either of the belligerents was disposed to protect him. Of such protection the American commerce has often availed itself, during the war between the United States and the Barbary powers; nor was it ever supposed by either of the great belligerent powers, that such commerce, so protected by its enemy, had thus become liable to capture and confiscation. The case might also occur, that of two allied belligerent powers, a third power should be enemy as to one and neutral as to the other: in that case, his seeking the protection of the common enemy of these allied powers, against that of them to which he was enemy, could not subject him to capture and confiscation by the other allied power, with respect to which he was neutral; his right in either of these and in all cases, to protect himself against his enemy by availing himself of whatever convoy offers, is unquestionable. I state these arguments against the *broad ground* taken in the royal instructions above quoted. But it will be said that the belligerent having also an unquestionable right to ascertain the neutrality of vessels, and belligerent rights being paramount to neutral rights where the two happen to be in collision, hence the attempt of the neutral to de-

prive the belligerent of his right, by putting himself under convoy, forms of itself a ground of capture and confiscation. To this I answer,

Firstly: That the belligerent rights, where they come into collision with those of neutrals, are not to be deemed in *all cases* paramount; and that nothing can establish such a general rule but force, which is not law or justice.

Secondly: That no presumption necessarily arises against the neutral, from the mere circumstance of his being found under enemies' convoy; but that this point will depend upon the peculiar circumstance of each case.

Thirdly: That where the belligerent and neutral rights conflict, all other circumstances being equal, the plea of necessity ought to decide the question in favour of the neutral. In the case supposed, the belligerent is seeking the mere exercise of a right, but the neutral is occupied in his self preservation.

Fourthly: Superadded to this reason in favour of the neutral right, is one springing out of the immutable principles of equity; for since, according to modern practice, the neutral has no representative in the judicature by which his cause is tried—that it is no longer an umpirage, or a court of arbitration—so his claim to a favourable leaning towards his right, in all questionable cases, is very much strengthened.

But it is also proper to inquire, whether the vessels in question did in fact put themselves under convoy with a view to avoid examination by Danish cruisers. Now it appears, in the first place, that they did not seek convoy for any purpose, but that they were forced into it. Apart, however, from that question, there were not any Danish laws or ordinances, which they knew of, subjecting them to capture; nor could they apprehend or anticipate any such; the less, as they had previously passed through the Sound, or Belt, in safety, and without convoy; hence they had not any motive to seek convoy as a protection against Danish cruisers. They had, indeed, other inducements to put themselves under convoy; the decrees of his majesty

the emperour of France (since, happily for the harmony between the United States and France, repealed) were then in force: that system, working against the English orders in council, produced such a state of things with regard to the commerce of America, that scarcely one of its ships could move on the face of the ocean without being exposed, under this unfortunate co-operation of hostile systems, to capture and confiscation: hence it is not surprising if American vessels have, from time to time, been terrified into the convoy, now of one party, now of the other. But had this happened in the cases before us, yet it would not have formed a just ground of capture and confiscation; for, the merits or demerits of the Berlin and Milan decrees out of the question, those decrees have not been adopted by Denmark: indeed, at the time the vessels were taken, his majesty had not assumed any course, with respect to the American commerce, from which evil was to be apprehended: hence, I beg leave to repeat, that the vessels in question cannot be presumed to have sought protection under British convoy for the purpose of avoiding his cruisers. But, if the contrary had been proved, if it stood confessed that they had sought convoy against Danish cruisers; in that case they would have been liable to capture certainly, but it is equally certain that they would not have been liable to condemnation. I must again totally deny that the rule laid down in the article of the royal instructions above cited, is supported by any principle to be found in the law, and I can confidently ask your excellency to show me any authorities in its favour. If the writers be silent on the subject, then their silence is to be construed favourably for the neutral; it supposes that his right to sail under convoy, in all cases, is indisputable: what is not expressed, against this claim, cannot be implied; but, I will add, that all the analogies to be drawn from the law are in favour of the neutral. In this view, the rule laid down in the instructions, by its sweeping latitude, forms its own condemnation; for it would comprise not only vessels which might accidentally be within sight of, or at any inde-

finite distance from, an enemy's convoy, but vessels found in an enemy's harbour under cover of his guns. But the law says, that neutral goods so found under his forts, within his territory, or even on board his vessels at sea—which is to be as immediately and totally under his protection as is possible—that these are not liable to confiscation, but shall be restored to the neutral owners. The doctrine laid down by Grotius in the "de jure belli ac pacis" on this point, has never been refuted, but has, on the contrary, been adopted by subsequent writers: treaties, indeed, may have said otherwise, but treaties change not the law, they bind only the parties to them. I may equally ask your excellency to show me examples in the practice of nations, countenancing the rule laid down in the royal order; and I can quote, in favour of the neutral right, the example of England—a power which neither your excellency or myself are disposed to extol for her moderation in the exercise of her belligerent rights, or for any dispositions which she has manifested favourable to those of neutrals—England herself has never gone to the extent of condemning vessels upon the mere ground of their having been taken under enemies' convoy, but she has captured them in that situation and acquitted them.

I might occupy your excellency's attention by expatiating on the conduct of Denmark in former times, by carrying back your view to a consideration of that great system of neutral rights, which she so boldly adopted and so ably supported, in the year 1780—which are again recognised in her convention with Sweden of 1794—which she has subsequently co-operated with Russia to establish, and the leading feature of which still appears in the very royal instructions on which I have been commenting: but it would be an ungrateful task, and not necessary to be undertaken, because the mere mention of the subject carries conviction to the mind on the point to which I would apply it, and because, on every other, I have already said more than enough to establish the chief position with which I began: viz. that nothing to be found in the law will authorize the

condemnation of neutral property upon the mere fact of its being found under enemies' convoy, and that therefore on due proof of its neutrality, it must be acquitted.

I consider it to be a propitious circumstance, that in acting upon this very important question, his majesty's government is unembarrassed by the claims of privateersmen, and that the cases of these vessels are thus presented in the plainest form, unmixed with any extraneous matter, the captures having been made by publick ships, leaving the fullest scope to the magnanimity and justice of his majesty's disposition.

I have the honour, &c. G. W. ERVING.

To his Excellency M. de ROSENKRANTZ,
First Minister of State, &c. &c. &c.

(No. 1.)

LIST OF AMERICAN VESSELS

Taken in company with the remainder of a fleet under convoy of a British gun-brig and sent into Christiansand by five Danish gun-brigs in July, 1810.

Vessels and Names.		Captains.	Where from.	Where bound.	Where owned.
Schooner	Annawan,	Donaldson,	St. Petersburgh,	Philadelphia,	Philadelphia.
Do.	Hesper,	Cushing,	Do.	Boston,	Newburyport.
Do.	Hope,	Rhea,	Do.	Providence, R. I.	Providence.
Do.	Janus,	Gawn,	Do.	Newburyport,	Newburyport.
Barque	Mary,	Ropes,	Do.	Salem,	Salem.
Brig	Elizabeth,	Campbell,	Do.	Philadelphia,	Philadelphia.
Do.	Hope,	Meik,	Do.	Marblehead,	Marblehead.
Do.	Polly,	Graves,	Do.	Do.	Do.
Schooner	Rebecca,	Meik,	Gothenburg,	Do.	Do.
Do.	Iris,	Russel,	Do.	Salem,	Salem.
Brig	Sophia,	M'Intire,	Do.	Liverpool,	These vessels are American, but the cargoes on freight supposed for English account; no appeal declared for either vessel.
Barque	Eliza,	Luff'kin,	Do.	Do.	

(No. 2.)

LIST OF AMERICAN CASES

Now pending before the High Court of Admiralty at Copenhagen, June 1, 1811.

Date of capture. 1810.	Vessels and names.	Captains.	Where owned.	Where from.	Where bound.	Where detained.
May 14,	Schooner Egeria,	Law,	New York,	New York,	St. Petersburgh,	Fahrsund.
June 5,	Brig Minerva,	Baker,	Portland,	Portland,	Do.	Do.
2,	Schooner Oscar,	Cunningham,	Baltimore,	Baltimore,	Gothenburgh,	Heckiford.
July 31,	Do. Minerva Smyth,	Mann,	Philadelphia,	Philadelphia,	Kiel,	Kiel.
	Do. Fair-trader,	Craig,	Do.	Do.	Do.	Do.
	Brig Ariel,	Butler,	Do.	Do.	Do.	Do.
August 18,	Schooner Resolution,	Eldridge,	New York,	New York,	Gothenburgh,	Christiansand.
8,	Brig Nimrod,	Smith,	Do.	Do.	Elsineur,	Aalbourg.
	Schooner William and Jane,	Bunker,	Do.	Do.	Russia,	Callenbourg.
29,	Brig Richmond,	Jervis,	Philadelphia,	Philadelphia,	Gothenburgh,	Fahrsund.
October,	Schooner Pittsburg,	Yardsley,	Do.	Do.	Do.	Heckiford.
	Do. Maria Theresa,	Phleps,	New York,	New York,	Kiel,	Fahrsund.
November,	Do. Amiable Matilda,	Hague,	Do.	Do.	Do.	Do.
December,	Do. Washington,	Almy,	Do.	Do.	Russia,	Callenbourg.
1811.						
April 1,	Brig Rachel,	Joseph,	Salem,	Boston,	Do.	Copenhagen.
	Schooner Charlotte,	Pierce,	Boston,	Do.	Stockholm,	Isle of Bonholm.

Mr. Erving to the Secretary of State.

COPENHAGEN, JULY 15, 1811.

SIR,

I HAVE the honour herewith to enclose copies of my correspondence with this government since my last communication, viz.

No. 1. Mr. de Rosenkrantz his note of June 28th in reply to mine of the 6th and 7th of June.

No. 2. My note to Mr. de Rosenkrantz, of June 30th, in reply to the above.

No. 3. Mr. de Rosenkrantz, his note of July 9th in reply to mine of the 30th of June.

On the 28th of June, I waited upon the minister for the purpose of conversing with him on such part of his note of that date as respected the convoy cases, but did not obtain any thing more satisfactory than what is contained in it. On the 29th he went into the country, from whence he did not return until the morning of the 2d instant: in the mean time the cases were pressed forward in the high court, and it was determined to condemn four of them instantly, as though it were to preclude the possibility of any further remonstrance on my part. I had received an intimation of this intention on the 30th of June, and then wrote to Mr. de Rosenkrantz unofficially, hoping that he would be able to arrest the progress of the tribunal. On the 1st instant, having ascertained that intention, I again addressed him in the same way, and in terms rather more forcible; that communication, though unofficial, Mr. de Rosenkrantz, actuated by the most friendly motives, immediately sent to his majesty, yet it failed of its intended effect, and on the 2d instant four of the cases were condemned.

On receipt of the minister's last note (on the 9th,) I again waited on him and warmly remonstrated against this precipitate procedure, and the determination taken to condemn all the convoy cases without admitting any justificatory pleas; he reverted to whatever is found in his written communications to support the determination, and

yet seemed to regret that it had been taken; but withal was unable to effect, and did not afford the least encouragement to hope for any modification of it; nevertheless some of these are cases of great hardship and I have concluded not to relax my efforts in their favour, whilst any one of them remains uncondemned.

In every other respect the position of our affairs is not unsatisfactory, the privateers are discouraged, and nearly all our vessels pass without interruption. I transmit herewith lists and statements as correct as it is possible to make them, which place in the most distinct point of view whatever has passed in relation to, and the actual state of the business with which I am charged.

With the most perfect respect and consideration, &c.

GEORGE W. ERVING.

To the Secretary of State.

No. 1.

Translation of a note from Count Rosenkrantz to Mr. Erving, dated June 28, 1811.

The undersigned, minister of state, chief of the department of foreign affairs, has laid before the king, his master, the notes which Mr. Erving, special minister from the United States of America, addressed to him on the 7th current. He is charged to assure this minister that his majesty has seen with great satisfaction, that the President of the United States recognises the reciprocal utility of the relations which unite the two governments.

The king having always had it at heart to maintain a good understanding with the American government, would be much pained if he could be convinced that the subjects of the United States, who have carried on commerce or navigation either in the ports of his majesty or in the waters which wash the shores of his states, and in the adjoining latitudes, have had just cause to complain of the treatment which they have met with here in consequence of the privateering which his majesty has been forced to autho-

rize by the war into which the Danish nation have been drawn by the government of Great Britain. His majesty is persuaded that the vessels captured under the flag of the United States, have not been brought into his ports unless there was reason to suppose that the vessel was not duly authorized to carry that flag, or that she was engaged in an illicit trade. The ordinance as to privateering, which was published on the 28th of March of the last year, prescribed to those fitting out privateers, the conduct they were to pursue, and it also fixed the responsibility to which they were subjected. The high court of admiralty watches over the execution of this ordinance, which has met the approbation of all the governments of Europe.

If there have been many vessels under the American flag brought in, it is because there have been a great number of them furnished with false papers, that evidently carried on a simulated and justly prohibited commerce. It was naturally very difficult for the courts to distinguish at first, the navigation which was fair, and in rule (en régle) from that which was devoted to the service of the enemy of Denmark. The conduct of the navigators who followed the latter compromitted those who had nothing to reproach themselves with; but in every case where the high court of admiralty discovered that the papers on board proved that the vessel was really American, and that the captain had not made an improper use of them, to cover the property of the enemy, passing it off as American, the vessels and the cargoes have been released. There was one cause of a seizure and of process against American vessels, which in a certain degree applied to those that produced false papers, or to those in whose documents there were irregularities. This was the certificates of origin granted to American vessels by the French consuls residing in the ports of the United States. The French government caused it to be officially declared to the court of Copenhagen, on the 22d of September, that the consuls of France would not grant any more certificates of origin, and that every American vessel that had them on board, had so far

false papers, and was to be treated accordingly. Taking into view the strict and happy union which subsisted between the king and his majesty the emperour of the French, his majesty could not but pay attention to this communication. He therefore ordered that the certificates of origin, which had been thus declared to be all false, should be considered by the prize courts as a false document, which would authorize the condemnation of the vessel that had them on board. The undersigned having been afterwards informed by the charge des affaires of his majesty in the United States, and more recently by Mr. Erving, that the consuls of France in the United States had not received the order of their government to abstain from granting these certificates, until the 13th of November of last year, by the *Hornet*, and that they had not ceased granting them until after that period, and having reported this to his majesty, he immediately directed that the certificates in question should no longer be injurious to the vessels that were furnished with them, provided that these certificates bore date prior to the 13th of November of last year.

The king has not confined himself to giving this proof of his attention to the remonstrance made to him on the part of the government of the United States. His majesty has, also, having in view the representations made by the special minister of the United States, just ordered that the cases of the following vessels, under the American flag, brought into the ports of his dominion, viz.

Minerva, - - - Captain Baker,
Resolution, - - - - - Eldridge,
Pittsburg, - - - - - Yardsley,
Maria Theresa, - - - Phelps,
Amiable Matilda, - - - - Hague,
Minerva, - - - - - Smith,

should be reported to him by his chancery before the definitive sentence was pronounced, in case the supreme court of admiralty should find that the charges alleged by the captors, were so well founded as to make it probable that the sentence would be unfavourable to the vessels. Mr.

Erving will be pleased to observe, that these are vessels acquitted in the first instance by the prize courts, and in whose cases appeals have been made by the captors. His majesty has also determined to cause to be reported to him in the same manner the cases of the following vessels:

Oscar, - - -	Captain Cunningham,
William and Jane, - - -	Bunker,
Washington, - - - -	Almy,
Rachel, - - - - -	Joseph,
Charlotte, - - - - -	Pierce,

in which the masters of the vessels have had recourse to an appeal to the decision of the supreme court. The undersigned flatters himself that Mr. Erving will find in this compliance of the king his master, an evident proof of the desire of his majesty to see that the most exact justice may be observed towards the American vessels brought into the Danish ports.

His majesty, who has seen with great satisfaction that the President of the United States properly appreciates the sentiments of justice and equity which animate him, feels gratified in manifesting to him, that he desires to preserve and to cultivate on his part, the relations of good understanding and of amity, which have always subsisted between the Danish government and that of the United States of America. It is enjoined on the undersigned to charge Mr. Erving with assuring his government that the intentions of the king, his master, are invariable in this respect.

In regard to vessels under the American flag, arrested at sea by Danish cruisers, and which were found under the convoy of British ships of war, Mr. Erving will permit the undersigned to have the honour of observing to him, that when the fact is fully proven, the searching after, and the use made of the protection of the enemies of Denmark, in the seas which wash the shores of his majesty's dominions, or in those which environ them, cannot be viewed by the Danish government, but as having taken from these vessels their original character of neutrals. But the king, not

having been willing, that the courts should attribute to vessels under the American flag, the having been placed (de s'être mis) under the protection of his enemies, unless the fact was proven, has very recently directed, that proofs the most evident, be required to establish the fact, that a vessel under the American flag had been (ait été) under English convoy. The undersigned cannot but urge in favour of the principle established by the 11th article of the ordinance for privateering, the argument that he who causes himself to be protected by that act, ranges himself on the side of the protector, and thus puts himself in opposition to the enemy of the protector, and evidently renounces the advantages attached to the character of friend to him, against whom he seeks the protection. If Denmark should abandon this principle, the navigators of all nations would find their account in carrying on the commerce of Great Britain under the protection of English ships of war, without running any risk. We every day see that this is done, the Danish government not being able to place in the way of it sufficient obstacles. The undersigned will add a single observation which will serve to convince Mr. Erving, that this principle is, in the view of his majesty, as just as it is invariable. It is that every Danish vessel which should make use of English convoy is condemned, if she is convicted of it, in like manner as a foreign vessel. It is but too well known that in all times, during maritime wars, neutral navigation has been exposed to embarrassments and delays. The Danish navigation has had experience of it in its time. It is, therefore, that the king has established rules for privateering, which place the navigation truly neutral, under cover from vexations. His majesty would equally have wished entirely to have prevented captured vessels from experiencing delays of any importance, when it was found that they had their papers on board in order, (en régle) and that they had not improperly used them to carry on a simulated commerce, on account of the enemy of Denmark. He is convinced that he has taken for this purpose all the measures in his power, and he is resolved carefully to watch over their execution. These

measures and the will (volonté) of the king, offer sure guarantees to the commerce of the United States, that the vessels under their flag will be able to navigate in the seas and waters visited by the Danish cruisers, without any risk of being molested by them or brought in, if their papers are in order (en régle) and there is no reason to suppose that they have been improperly used. The vessel which is destined to carry into any port whatever, produce and merchandise, which are not admitted into that port, according to the laws of the state to which it belongs, will not be considered as in rule (en régle) and the navigators who may aim at employing their vessels in this way, will only have to blame themselves if their enterprise leads to their injury.

The undersigned, in acquitting himself, as he has just done, of the orders of his sovereign, cannot deprive himself of the honour of again reminding Mr. Erving that the navigation and the commerce of the citizens of the United States, found a reception and an outlet for the productions of their country, in the ports under the dominion of the king of Denmark, at a time when they did not enjoy the same advantages in the ports of the greater part of the states of Europe. This circumstance will sufficiently prove to the American government, that that of Denmark is fully aware of the reciprocal utility of the relations of commerce and of good understanding between the two nations.

The undersigned has the honour of renewing to Mr. Erving, the assurance of his high consideration.

(*Signed*) ROSENKRANTZ.

G. W. Erving, Esq. &c.

No. 2.

Mr. Erving to Mr. de Rosenkrantz.

COPENHAGEN, JUNE 30, 1811.

The undersigned, special minister of the United States of America, has received the note which his excellency M. de Rosenkrantz, first minister of state and chief of the

department of foreign affairs, was pleased to address to him on the 28th instant, in reply to the representations made by the undersigned on the 6th and 7th instant, respecting the reclamations with which he is charged. He shall immediately transmit his excelleney's said note to the government of the United States, and is persuaded that the President will receive with great satisfaction, the reciprocation which his majesty has therein offered of the friendly sentiments which the undersigned was ordered to express: these dispositions and the just and liberal views of his majesty, with regard to the neutral commerce of the United States as declared in his excelleney's note, since they leave not the least doubt but that his majesty has been wholly unaware of the great injuries which that commerce has lately sustained within his dominions, afford to the undersigned the happy presage of a favourable termination to the business with which he is intrusted, and a sure pledge that the harmony which has hitherto always subsisted between the two governments, will still be maintained in its full extent and perfection.

Thus assured of meeting on the part of his majesty's government with no dispositions but those which are of the most just and friendly character, it is with more than ordinary pleasure that the undersigned proceeds in the performance of his duty.

His excellency, the minister of state, after showing the causes which have occasioned the capture of so many vessels under the American flag, observes, that in all cases where the supreme tribunal of admiralty has found that the papers on board such vessels prove their American character, and where their neutrality has not been abused by any attempt to cover enemy's property under simulated papers, both vessels and cargoes have been released. Such is undoubtedly the impression on the mind of his majesty, who has been convinced that the inquiries pointed out by his instructions have been conducted with all the impartiality by which those instructions were dictated: but it can be shown in a multiplicity of cases that the high court has

entered into matter entirely irrelevant to the object of the instructions; that it has given weight to evidence entirely inadmissible, and has resorted to pretexts for condemnation entirely insufficient: it shall be shown to his majesty, that, thus contrary to his royal intention, a great mass of American property has been unjustly condemned in the high court—whether by a misconstruction or mal-application of his majesty's regulations, the undersigned will not undertake to say—perhaps it may not be important to inquire, since, be the source of this evil what it may, to the royal sense of justice only the injured now have to look, and they look with confidence for redress. The details upon this subject will be voluminous: the undersigned will here point only to one, and that a recent decision (being the first which presents itself,) by way of exemplification.

In the case of the American ship "Swift, Champlin." In the high court on the 11th March, 1811, this ship was condemned on an allegation that captain Champlin had thrown some papers overboard; which allegation had no better or other support than the oaths of seven of the privateer's men who captured her. It is to be observed on this sentence,

Firstly, as to the alleged fact. The royal instructions of March, 1810, after stating what shall be deemed causes of condemnation, in the 12th section states what shall be cause of suspicion, and subject vessels to further examination; and in the article "e" specifies the throwing overboard or destroying of papers. This throwing overboard of papers then, constitutes ground of suspicion only, and authorizes further examination with a view to ascertain whether that fact can implicate the neutral character of the vessel. Now, in the course of the further examination on this trial, the neutrality of the ship and the fairness of her voyage were fully established; the alleged circumstance with respect to her papers therefore remained naked, and unsupported by any sort of ground or pretext for condemnation—and yet she was condemned!!

Secondly, as to the evidence. The American master objected, that it was contrary to all the principles of justice and law to admit the evidence of privateersmen, who were parties interested in his condemnation; but the court decided that they were not interested, and that their evidence must be admitted! and that the evidence of the crew of the American ship should not be admitted to rebut it! The American master then went on to show that the witnesses were interested, and produced a contract made between them and the owners of the privateer (the authenticity of which was acknowledged) by which it appeared that the equipage of the privateer were to receive half of the next prize which they might take: still the court determined that they were not interested in the condemnation of this ship, and that their evidence should be admitted!! The American master then went on to prove that it was impossible they should have sworn truly: they had declared that the papers thrown overboard were of the size of about six inches square, and had been passed through a certain opening in the after-part of the ship; the American master proved, by the examination and declaration of two Danish masters, that the privateersmen could not have seen them dropped into the water as they had stated; and farther, that the hole pointed out was not large enough for them so to have been passed through: but neither did these proofs produce any effect in favour of the American; he was predestined to condemnation. The court had no disposition to reject the evidence of the privateersmen, though the same privateersmen had produced two other men to swear that they had seen this same ship "Swift" at Liverpool—and captain Champlin proved that, one day after the day in which this evidence stated that he was at Liverpool, he spoke his majesty's gun-brig the "Sea-Gull!"

The undersigned trusts that any comment whatever, upon such a sentence, would be entirely superfluous—a sentence in direct violation of his majesty's instructions. He will only add, that the property *thus condemned* is

valued at one hundred thousand Spanish dollars! The explanation which the minister of state gives, as to the objection made by the tribunals to French certificates of origin, and the order which his majesty has now been pleased to issue on that subject, though applying only to two of the cases, viz. "Nimrod" and "Richmond," named in the lists transmitted to his excellency on the 6th inst. and both lately acquitted, cannot fail of being satisfactory: but, observing therein that the notification made by the French government was not till the 22d of September, the undersigned cannot refrain from again adverting to the conduct of the high court, which, in a sentence given on the 22d of December, in the case of the "Agent," Row, justified the *capture* of that ship in the month of *June*, upon the ground that she had with her papers a French certificate of origin; and upon that same ground, *and upon that only*, decreed that a sum of 500 rix-dollars should be paid to the captors! Precisely the same decision was given, about the same time, in the case of the "Julian," Abbott.

In the order which his majesty has now issued with respect to the eleven cases pending in the high court, and as specified in the minister of state's note, the undersigned recognises the determination of his majesty to insure justice to the American claims; and he has the honour to assure his excellency the minister, that the President will receive with peculiar satisfaction the declaration of his majesty accompanying this act, and charging the undersigned to communicate to his government his majesty's invariable disposition to cultivate the good intelligence and friendly intercourse which ought always to subsist between the two countries.

When on every other point there is the pleasing prospect of a perfect accord, it is with regret that the undersigned feels the necessity imposed on him of differing in opinion with his excellency M. de Rosenkrantz on the subject of the convoy cases, and of contesting some of the doctrines which the minister has laid down as applicable to those cases.

His excellency has not thought proper to reply to the reasoning upon which the undersigned based his reclamation, which therefore remains in its entire force; nor has he produced any thing which can be deemed satisfactory in support of the principle assumed in the royal instruction to which that reasoning has been applied. The minister of state has produced in favour of the principle in question the single argument, that he who puts himself under the protection of another, does thereby take side with his protector, and renounces the advantages which belong to the quality of friend as to him against whom he seeks protection. In vain are the books examined to discover the source from which this argument is drawn; in vain are history and the records of diplomacy resorted to, for authority or for any countenance given to the doctrine which it embraces: but these books and these records, have they lost their title to respect? Have they become a dead letter? His majesty certainly does not assume to act on principles unknown to them; to originate a practice at once undefined in its limits and rigorous in its character beyond all precedent; in hostility also with the ancient doctrines of Denmark, and a stranger to all her maritime codes: so much a stranger as that it is not found even in the royal instructions issued on the 14th September, 1807. His excellency the minister of state supposes an acquiescence in this new rule upon the consideration that it is applied to Danish ships as well as to strangers. Certainly the United States will never dispute the equity or propriety of any law emanating from his majesty's authority and applied to his own subjects; but it is equally certain that they found their rights upon the publick law only, and cannot consent to place them at the disposition of any partial authority, or to limit them by the convenience of the belligerent powers. It is not readily conceived how Danish ships or ships of the allies of Denmark, being subject to the capture of the enemy, can be found under his convoy; vessels carrying such flags, and so found, cannot but be enemy's property; but if by whatever means his majesty's subjects do put themselves under enemy's con-

voy, they are doubtless guilty of a high crime, and richly merit all the punishment which his laws inflict; but is the same rule to be applied to the property and to the citizens of a neutral and independent power?

Thus much the undersigned has found it his duty to say in addition to what has before been stated and remains unanswered respecting the principle assumed in the royal instruction of March, 1810: but he finds one part of the minister's note which as he apprehends goes much beyond that instruction and which would preclude the neutral from any kind of justification for being found under enemy's convoy.

It were a gross dereliction of the interests of the United States should the undersigned leave the least room for his excellency to suppose that the American government will accede to the fiction propounded by his excellency, viz. "that neutral vessels found under enemy's convoy *have eo facto lost their original quality of neutrals.*" This idea was certainly more fully and distinctly expressed in conversation, and seeing that there are parts of his excellency's note which favour a different conclusion, he eagerly seizes the hope that it is not really intended to carry the doctrine to such an extent; yet as in a matter of such importance nothing should remain equivocal, the undersigned desirous of laying it before the President in the most distinct manner, requests that he may be favoured with an explanation as to whatever is susceptible of mis-construction.

His excellency, pursuing the idea above cited in mentioning the instructions which his majesty has now given to his tribunals to direct their examinations on American vessels found under enemy's convoy, says "que les preuves les plus evidentes seront requises pour prouver qu'un navire sous pavillon Americain *ait été* sous convoi Anglois." Yet it is hoped that the words *ait été* are not intended to be connected with what is above quoted, but rather that they are to be governed by the sense of the words "s'ëtre mis sous la protection" found in the same sentence; by the words "la recherche et l'usage faites" in the paragraph

preceding; by the words "se fait proteger," which will bear the same construction in the paragraph following; and finally, by the words in the article "d" clause 11th, of the royal instructions of March 1810, construed "using convoy," which must be supposed to mean a voluntary use of convoy, and cannot intend vessels which have been forced into or have accidentally found themselves in convoy. For, to condemn vessels under such unfortunate circumstances! is that the course of a power friendly to the neutral? This reflection so strengthens the above construction of the words used in the royal order of March 10th, as not to leave a possibility of supposing that his majesty intended that such innocent vessels should be affected by it.

The undersigned cannot conclude this note without expressing his full confidence that the friendly dispositions professed by his majesty will dispose him so to regulate the conduct of his tribunals upon the convoy cases as to satisfy the just claims of the United States, or without assuring his excellency the minister of state in reply to the last observation in his note, that the American government is also fully sensible to the value of the commercial and friendly relations which have always subsisted between the two countries.

No. 3.

Count Rosenkrantz to Mr. Erving, dated Copenhagen, July 9, 1811.

The undersigned, minister of state and chief of the department of foreign affairs, has seen with very particular satisfaction from the note of Mr. Erving, minister of the United States of America, under date of the 30th ultimo, that he was not disappointed in his expectation of finding that Mr. Erving would acknowledge the sentiments of justice and equity which animate the king his master, as well as the desire of his majesty to maintain a good understanding with the government of the United States. But it is not without pain that the same minister of state sees that Mr. Erving remonstrates against the sentences

already definitively pronounced. It is with the same sentiment that the undersigned finds himself charged by the orders of his sovereign to repeat to the minister of the United States, that his majesty cannot make any general change in the regulations of the ordinance for privateering, issued on the 28th March of last year, and in consequence none in the 11th, which under the letter "*d*" declares that neutral vessels, that make use of the convoy or of the protection of the vessels of war of Great Britain, are to be considered as good prize if the Danish privateers capture them under convoy. The undersigned must repeat that the rule laid down by that article of the ordinance, will be followed by the prize courts whenever the proofs are clear; that the vessels under American flags as well as those of other nations are found in a convoy under the protection of the enemies of Denmark. He does not wish to repeat here what he had the honour of stating on this subject in his preceding note; but he begs Mr. Erving to be so good as to observe to his government that none of the powers of Europe have called in question the justice of this principle.

Mr. Erving has observed, that notwithstanding the Danish courts had not been directed to consider the certificates of origin granted by the French consuls in the ports of America as false until after the 22d September of last year, there has nevertheless been imposed upon two vessels acquitted by the supreme court of admiralty, a fine solely for having these certificates on board, as Mr. Erving has been informed. The undersigned, although he is not informed of these facts, will not call in question the assertion of the minister of the United States; and he must consequently suppose that the suspicion of the legality of these certificates was excited by the publick declaration which was before made on the part of the French government, that the consuls of France were not authorized to grant the certificates in question, and that for that reason the courts have decided that the captors were justified in bringing in the vessels for examination.

(*Signed*) ROSENKRANTZ.

Hon. Mr. Erving, &c. &c.

No. 1.

(Received in Mr. Erving's Letter of the 15th July, 1811.)

Mr. Isaachsen's List of Vessels captured from April 30th to August 21st, 1809, and sent into Christiansand and other ports of Norway,

Which list he transmitted to government, gives a total of - - - - 36

Of this number there were released by the decision of the inferiour courts, against which sentences the captors were induced not to appeal - - - - - - 17
And there were released cases in which captors did appeal - - - 3
And there were condemned, but the masters appealed to the high court which then sat at Christiana - 16
36

Note. In the 17 cases released, the court decreed 9,500 rix dollars costs, &c. against the American masters, over and above which they paid 19,800 rix dollars to the captors to induce them to forego their right of appealing.

The three cases in which the American masters refused to compromise with the captors, who therefore appealed to the high court which then sat at Christiana, were, viz.

Vessels' Names.	*Masters' Names.*	*Where belonging.*	*Supposed val. in dols.*	*Remarks.*
Joseph,	Turner,	Boston,	20,000	Cleared.
Harriet,	Child,	Baltimore,	26,000	Cleared.
Washington,	Janes,	Boston,	15,000	Cleared.

The 16 cases in which the Masters of the American Vessels appealed were, viz.

Vessels' Names.	*Masters' Names.*	*Where belonging.*	*Supposed val. in dls.*	*Decisions on app'ls in Christiana.*
North America,	Drinkwater,	Portland,	55,000	Cleared, December 28th, 1809.
Jane,	M'Lellan,	do.	23,000	Condemned, 18th,
Suwarrow,	Leech,	Beverly,	20,000	do. 28th,
Pacific,	Beckets,	Salem,	31,000	do. 18th,
Industry,	Cook,	do.	12,000	Cleared.
Edward Henry,	Foster,	Gloucester,	7,000	Cleared, November 20th,
Ann,	Howe,	Boston,	25,000	do. 20th,
Good Friends,	Thompson,	Philadelphia,	36,000	do.
Atlantic,	Fountain,	do.	20,000	do. December 28th,
Commerce,	Skinner,	do.	85,000	Condemned.
Belle Air,	Jacobs,	do.	60,378	Cleared.
Honolancet,	Randall,	Portsmouth,	25,000	do.
James,	Spofford,	Philadelphia,	38,000	do.
America,	Stone,	Newburyport,	7,000	do.
Topaz,	Herrick,	do.	60,000	Condemned.
Industry,	Bryant,	Norfolk,		do.
*Adamant,	Stowle,	Baltimore,		do. in both courts.
*Pigou,	Collett,	Philadelphia,		do.

* These two last vessels were not included in Mr. Isaachsen's list, it was doubted whether they were bona fide American.

Of the 36 mentioned in this list, there were only six which were ultimately condemned.

No. 1.—Continued.

List of American Vessels captured and carried into the ports of Norway, in the year 1810.

(Received in Mr. Erving's Letter of the 15th July, 1811.)

	Vessels' Names.	*Master's Names.*	*Where owned.*	*Bound to*	*Detained at*	*Remarks.*
1	Egeria,*	Law,	New York,	Russia,	Fahrsund,	Cleared, paying costs and 200 dollars, captors appealed.
2	Venus,	Halstead,	do.	Gothenburg,	Christiansand,	do. and sailed.
3	Portia,	Tubbs,	Norfolk,	Christiana,	Hitteroe,	do. paying 500 dollars.
4	Oscar,*	Cunningham,	Baltimore,	Gothenburg,	Fleckefiord,	Condemned.
5	William Wilson,	Wigman,	do.	do.	do.	Cleared, paying costs—captors appealed and compromised.
6	Triton,	Hathaway,	New Bedford,	Fahrsund,	Fahrsund,	Do. damages awarded.
7	Columbine,	Jones,	New York,	Memel,	do.	Do. captors appealed, compromised.
8	Saratoga,	Trient,	Boston,	Gothenburg,	Fleckefiord,	Do. do. do.
9	Zeno,	Stone,	do.	do.	Christiansand,	Captured by a French lugger, papers sent to Paris.
10	Resolution,*	Eldridge,	New York,	do.	do.	Cleared, paying costs—captors appealed.
11	Mary,	Wood,	Boston,	do.	Farhsund,	Condemned, captain appealed, cleared.
12	Catharine,	Ockington,	do.	do.	do.	Cleared, paying 150 dolls.—captors appealed, cleared again, paying 1000 dolls.
13	Eilen Maria,	Adams,	Newburyport,	Riga,	do.	Cleared, captors appealed, cleared.
14	Minerva,*	Baker,	Portland,	Russia,	do.	Undecided.
15	Sylph,	Forbes,	New York,	Gothenburg,	do.	Cleared and sailed.
16	Anu,	Howe,	Boston,	Christiansand,	Christiansand,	Cleared, discharged her cargo.
17	Agent,	Row,	Philadelphia,	Gothenburg,	Farhsund,	Cleared, paying costs and 1000 dollars—captors appealed, cleared again.
18	Nancy,	Brice,	do.	do.	do.	Cleared with damages—captors appealed, compromised.
19	Julian,	Abbott,	do.	do.	Christiansand,	Cleared, appealed, cleared, fined 1000 dollars and all expenses.
20	Hibernia,	Bush,	Norfolk,	do.	do.	Cleared, paying costs and 200 dollars to captors.
21	Cygnet,	Casenove,	Boston,	do.	Farhsund,	Cleared, payiug costs and 150 dollars to captors.
22	Nancy,	Briggs,	Rochester,	do.	Drontheim,	Cleared.
23	Hannah,	Dennis,	Newburyport,	Riga,	Christiansand,	Condemned, captain appealed, cleared.
24	Cornelius,	Bragdon,	Boston,	Gothenburg,	Farhsund,	Cleared, paying costs and 200 dollars to captors.
25	Joseph,	Pedrick,	Marblehead,	do.	do.	Do. do.
26	Richmond,*	Jervis,	Philadelphia,	do.	do.	Do. do.
27	Aurora,	Curtis,	Marblehead,	Riga,	do.	Do. do.
28	Antelope,	Riley,	Georgetown,	Gothenburg,	Christiansand,	Cleared by both courts, paying costs.
29	Polly,	Lyon,	Marblehead,	Lubeck,	Farhsund,	Cleared, costs and 150 dollars to captors.
30	Lydia,	Cheever,	do.	Salem,	Christiansand,	Papers sent to Paris.
31	Edward and Henry,	Foster,	Gloucester,	Russia,	Mandahl,	Cleared.
32	Betsey,	Fielding,	Beverly,	Gothenburg,	Farhsund,	Condemned, cleared.
33	William and Henry,	Seabury,	Newport,	Russia,	Christiansand,	Cleared, paying costs.
34	Amiable Matilda,*	Hague,	New York,	Kiel,	Farhsund,	Cleared, appealed, pending.
35	Maria Theresa,*	Phelps,	do.	do.	do.	do. do. do.
36	Pittsburg,*	Yardsley,	Philadelphia,	Gothenburg,	Hitteroe,	do. do. do.
	Aurora,	Hall,	Portsmouth,	Bergen,	Fleckefiord,	Condemned in both courts.
	Volante,	Clark,	Charleston,	Liverpool,	do.	Condemned, no appeal.

N. B. The two last mentioned vessels were not found in the original list; they had been omitted under a belief that they were not genuine American cases.

Of the 36 cases, believed to be genuine, there were cleared in the lower courts, cases in which the captors appealed	- -	17
There were condemned, cases in which the masters appealed	- - - - - -	4
There were acquitted, cases in which no appeal was prosecuted by the captors	- - - - -	13
There were two cases, viz "Lydia," Cheevers, and "Zeno," Stow, of French capture—papers in Paris	- -	2
		—36
Of the 21 appeals—there were acquitted in the high court	- - - 13	
Cases pending marked thus * Nos. 1, 4, 10, 14, 26, 34, 35, 36	- - 8	
	—21	

No. 2.

Received in Mr. Erving's Letter of 15th July, 1811.

List of American Vessels captured and carried into the ports of Holstein, Sleswick, and the Danish Islands, in the year 1809.

List made by Mr. Saaebye, July 14th, 1811, viz:

Date of Sentence.	*Vessels.*	*Masters.*	*Where belonging.*	*Arrived from*	*Bound to*	*Sentence of the prize court.*	*Sentence of the admiralty.*	*Remarks.*
April 8,	Rebecca,	Nimmo,	Baltimore,	Memel,	Teneriffe,	Condemned,	Condemned,	
July 11,	Commerce,	Otis,				do.	do.	
29,	Harriett,	Weeks,	Portland,			Cleared,	Cleared,	By paying 500 r. d. expenses of the court.
August 2,	Hebe,	Ogle,				do.	No appeal,	Ditto, ditto.
4,	Henry,	Harris,	Salem,			do.	do.	By paying 200 r. d. expenses.
14,	Spencer,	M'Carthy,				do.	do.	By paying quarantine and pilot money, and expenses of the court.
21,	Ann Louisa,	Roche,				Condemned,	Condemned,	
25,	Helvetius,	Baush,	Philadelphia,			Cleared,	Cleared,	By paying 700 r. d. and expenses of court.
26,	Annawan,	Donaldson,				do.	do.	Ditto 400 d. and ditto.
28,	Aurora,	Marsters,	Salem,			do.	do.	Ditto 600 r. d. and ditto.
	Hesper,	Cushing,			St. Petersburg,	do.	do.	Ditto 200 r. d. and ditto.
30,	Florida,	Stubb,				do.	No appeal,	Ditto 100 r. d. and ditto.
31,	Antelope,	Hopkins,	Boston,			do.	Cleared.	Ditto 200 r. d. and ditto.
October 2,	James,	Coffin,				Condemned,	Condemned.	
9,	Two Friends,	Livingston,	Charleston,			do.	do.	
28,	Concordia,	Johnson,				Cleared,	Cleared,	Ditto expenses and Sound dues.
November 25,	Moses Gill,	M'Com,				Condemned,	Condemned,	
	Alexander,	Hodge,				Cleared,	No appeal,	
	Mary Ann,	Martin,				do.	do.	
	Washington,	Story,				do.	do.	
		Swain,				Condemned,	do.	
	David Gelston,	Borth,				Cleared,	do.	
	Mary,	Hale,				do.	do.	
	Hetty,	Shore,				do.	do.	
	Susannah,	Handy,				do.	do.	

Of the above 25 cases, there have been condemned - 7
And there have been acquitted 18
25

List of American Vessels captured and carried into the ports of Holstein, Sleswick, and of the Danish Islands, in the year 1810.

Vessels' Names.	*Masters.*	*Where owned.*	*Arrived from.*	*Brought into.*	*Sentence of the prize court.*	*Sentence of admiralty.*
1 Orion,	M'Lelland,	New York,	New York,	Copenhagen,	Cleared,	No appeal.
2 Imogene,	Jewett,	Virginia,	Virginia,	do.	Condemned,	Condemned.
3 Mary Pilke,	Myer,	Newburyport,	Newburyport,	do.	do.	do.
4 Jason,	Allen,	Salem,	Cape Verd,	do.	Cleared,	No appeal.
5 Gosport,	Watger,	New York,	New York,	do.	do.	do.
6 Lydia,	Crabtree,	Charleston,	Charleston,	do.	Condemned,	Condemned.
7 Liberty,	Burtwell,	New York,	New York,	do.	do.	Cleared
8 Othello,	Seaman,	do.	do.	do.	Cleared.	No appeal.

No. 2—Continued.

	Vessels' Names.	*Masters.*	*Where owned.*	*Arrived from*	*Brought into*	*Sentence of the prize court.*	*Sentence of admiralty.*
9	Argo,	Wheelwright,	Norfolk,	Norfolk,	Copenhagen,	Condemned,	Condemned.
10	Pallas,	Head or Keith,	New York,	New York,	do.	Cleared,	No appeal.
11	Nereid,	Squires,	Charleston,	Charleston,	do.	Condemned,	do.
12	Mary,	Crayeroft,	Philadelphia,	Philadelphia,	do.	Cleared,	do.
13	Liveoak,	Yarrell,	Scarbrough,	Scarbrough,	do.	do.	Cleared.
14	Drummond,	Butler,	Philadelphia,	Philadelphia,	do.	Condemned,	Condemned.
15	Swift,	Champlin,	New York,	New York,	do.	do.	do.
16	Columbia,	Sullivan,	Kennebunk,	Lisbon,	do.	Cleared,	No appeal.
17	Mary,	Peterkin,	Baltimore,	Baltimore,	do.	do.	Cleared.
18	Franklin,	Adams,	Portland,	Terravecchia,	do.	Condemned,	Condemned.
19	Nonesuch,	Lively,	Baltimore,	Baltimore,	do.	Cleared,	No appeal.
20	Herald,	Barron,	Petersburg, Virginia,	Petersburg, Virginia,	do.	Condemned,	Condemned.
21	Georgia Planter,	Brown,	do.	do.	do.	do.	do.
22	Ganges,	Tracy,	Boston,	Cadiz,	do.	do.	do.
23	Devotion,	Millar,	New York,	New York,	do.	Cleared,	do.
24	Experiment,	Hill,	Baltimore,	Baltimore,	do.	do.	Cleared.
25	Hampton,	Holmes,	Newport,	Newport,	do.	Condemned,	Condemned.
26	Waltner,	Lee,	New York,	New York,	do.	Cleared,	No appeal.
27	Mars,	Balch,	New Hampshire,	Wismar & Stralsund,	do.	do.	do.
28	Cremer,	Swarcy,	Boston,	Boston,	do.	do.	Condemned.
29	Charleston & Liverpool Packet,	Clark,	do.	Cadiz,	do.	do.	No appeal.
30	Unicorn,	Frazier,	Baltimore,	Baltimore,	do.	do.	do.
31	Asia,	Ormsby,	Providence,	Providence,	do.	do.	do.
32	Rambler,	Adams,	Rhode Island,	Rhode Island,	do.	do.	do.
33	Fisher Ames,	Greenland,	Boston,	Alicante,	do.	Condemned,	Condemned.
34	Statira,	Palmer,	New York,	New York,	do.	Cleared,	Cleared.
35	Catharine Jane,	Darling,	do.	St. Michaels,	do.	Condemned,	do.
36	American Hero,	Leach,	Boston,	Boston,	do.	Cleared,	No appeal.
37	Alknomar,	Irish,	New York,	New York,	do.	do.	do.
38	Magnet,	Swett,	Portsmouth,	Cadiz,	do.	Condemned,	Condemned.
39	Swift,	Allen,	Providence,	Providence,	do.	Cleared,	Cleared.
40	Bona,	Bishop,	Baltimore,	Baltimore,	do.	do.	No appeal.
41	Rover,	Groves,	Boston,	Boston,	do.	do.	do.
42	Betsey,	Wilson,	Salem,	Salem,	do.	do.	do.
43	Rising Sun,	Myer,	Baltimore,	Norfolk,	do.	do.	do.
44	Express,	Thomas,	Boston,	Gothenburg,	do.	do.	Cleared.
45	Lion,	Bainbridge,	Philadelphia,	Philadelphia,	do.	do.	No appeal.
46	Washington,	Dennis,	Marblehead,	Marblehead,	Callunborg,	do.	Cleared.
47	Olive Branch,	Howland,	New Bedford,	New Bedford.	Aalborg,	Condemned,	Condemned.
48	Fanny Sewell,	Gale,	New York,	St. Michaels,	do.	do.	do.
49	Dolphin,	Latham,	do.	New York,	do.	do.	Cleared.
50	Nimrod,	Smith,	do.	do.	do.	do.	Pending.
51	Susannah,	Cassan,	Philadelphia,	Philadelphia,	Callunborg,	do.	Cleared.
52	Industry,	White,	do.	do.	do.	Cleared,	No appeal.
53	Dolphin,	Brevoor,	do.	do.	do.	do.	do.
54	Philip,	Williams,	Baltimore,	Baltimore,	do.	Condemned,	Cleared.
55	William and Jane,	Bunker,	New York,	New York,	do.	do.	Undecided.

No. 2—Continued.

Vessels' Names.	*Masters.*	*Where owned.*	*Arrived from.*	*Brought into.*	*Sentence of the prize court.*	*Sentence of admiralty.*
56 Delaware,	Gill,	New York,	New York,	Callunborg,	Cleared,	No appeal.
57 William and Henry,	Seabury,	Newport,	Newport,	do.	do.	do.
58 Pallas,	West,	Baltimore,	Baltimore,	Wordurborg,	do.	do.
59 Cleopatra,	Brown,	Wiscasset,	Wiscasset,	do.	Condemned,	do.
60 Canton,	Smith,	Providence,	Providence,	do.	do.	Condemned.
61 Flora,	Connell,	Philadelphia,	Carlsham,	Naschou,	do.	No appeal.
62 Henry,	Thompson,	New York,	New York,	Callunborg,	Cleared,	do.
63 William Gray,	Foster,	Salem,	Salem,	Copenhagen,	Condemned,	Condemned.
64 Catharine,	Endicott,	do.	do.	do.	Cleared,	No appeal.
65 Washington,	Almy,	New York,	New York,	Callunborg,	Condemned,	Pending.
66 Fair Trader,	Craig,	Philadelphia,	Philadelphia,	Kiel,	Cleared,	do.
67 Minerva Smyth,	Mann,	do.	do.	do.	do.	do.
68 Ariel,	Butler,	do.	do.	do.	do.	do.

Note. The "Nereid, Squires," No. 11, the "Canton, Smith," No. 60, and "Flora, Connell," No. 61, and "Fisher Ames," No. 33, are said to have been under very suspicious circumstances. Qu? as to the "Canton." In the "Experiment, Hill," the high court awarded 8,500 rix dollars damages to the captain. The "William Gray, Foster," was a peculiarly unjust condemnation, she had put into Copenhagen in distress, having lost a mast.

Of the foregoing list comprising cases	-	68
There were cleared in the lower courts	-	40
There were condemned in the lower courts, including the "Canton," "Flora," "Nereid," & "Fisher Ames,"		28
		—68

Against the sentences 68, so given by the lower courts, the captors have acquiesced in acquittals	-	28
The American masters have acquiesced in condemnations	- - - -	3
		—31
The captors have appealed in cases	- -	12
The American masters have appealed in cases		25
		—68
Of the appeals	- - -	37
There were cleared	- - -	12 —
There were condemned (including "Fisher Ames" and "Canton,")	- -	19
		—31

Pending cases, viz.

50 "Nimrod, Smith," 55 "William and Jane, Bunker," 66 "Fair Trader, Craig," 67 "Minerva Smyth, Mann," 65 "Washington, Almy," 68 "Ariel, Butler." - 6 —37

N. B. The Canton was bound from the United States to Petersburg, and I believe to have been the property of Samuel G. Arnold and Joseph Martin of Providence. She was taken under British convoy.

Nos. 3 & 4.

List of American Vessels taken in company with the remainder of a fleet under convoy of a British gun-brig and sent into Christiansand by five Danish gun-brigs, in July, 1810. [Received in Mr. Erving's letter of July 15, 1811.]

Vessels' Names.		*Captains.*	*From*	*Bound to*	*Owned at*	*Cargo.*	*Remarks.*
Ship	Annawan,	Donaldson,	St. Petersburg,	Philadelphia,	Philadelphia,	Sailcloth, hemp, iron,	
do.	Hesper,	Cushing,	do.	Boston,	Newburyport,	do.	
do.	Hope,	Rhea,	do.	Providence, R.I.	Providence,	do.	
do.	Janus,	Gawn,	do.	Newburyport,	Newburyport,	do.	Condemned July 9, 1811.
Barque	Mary,	Ropes,	do.	Salem,	Salem,	do.	Condemned July 2, 1811.
Brig	Elizabeth,	Campbell,	do.	Philadelphia,	Philadelphia,	do.	
do.	Hope,	Meik,	do.	Marblehead,	Marblehead,	do.	do. do.
do.	Polly,	Graves,	do.	do.	do.	do.	
Schooner	Rebeeca,	Meik,	Gothenburg,	do.	do.	Sundries,	do. do.
do.	Iris,	Russell,	do.	Salem,	Salem,	do.	do. do.
Brig	Sophia,	M'Intire,	do.	Liverpool,	}	}	These vessels American, but cargoes on freight supposed for English account. No appeals.
Barque	Eliza,	Luffkin,	do.	do.	} -	- -	
	Minerva,	Jackson,	}				Condemned. No appeals, they being as is supposed under circumstances of an unfavourable kind.
	Eliza,	More,					
	Volunteer,	Leeds,	} -		-	- -	
	Margaret,	Porter,					
	Eliza,	Morgan,	}				
	Vermont,	Nichols,					Appealed, condemned.

Note. The Annawan, Hesper, and Elizabeth, were tried in the prize court on their outward voyage, having been captured on entering the Baltic, they were acquitted and paid Sound dues.

The Hope, Rhea, had her papers indorsed by the British both in going into and coming out of the Baltic.

The eight last vessels were condemned before my arrival at Copenhagen. G. W. E.

It results from the foregoing Lists,

That the number of vessels carried into the ports of Norway in the year 1809, was 36, of which only 6 have been finally condemned: none are pending.

That the number of vessels carried into Norway, in the year 1810, was 36, of which there has not been one final condemnation, and that the causes of eight vessels only are pending in the high court of admiralty at Copenhagen.

That the number of vessels carried into the ports of Holstein, Sleswick and the Danish Islands in the year 1809, was 25, of which 7 have been condemned and 18 acquitted, none pending.

That the number of vessels carried into the ports of Holstein, Sleswick and the Danish Islands, in the year 1810, was 68, of which 19 have been finally condemned, and 6 are yet pending.

That of 18 convoy cases 8 have been condemned, they were desperate cases, ten are yet pending, some of them more favourably circumstanced than others.

The pending cases of the foregoing List are, viz.

Of the Norway list of 1810, eight, viz:

Egeria, Law,	Pittsburg, Yeardsley,
Oscar, Cunningham,	Maria Theresa. Phelps,
Resolution, Eldridge,	Richmond. Jarvis,
Minerva, Baker,	Amiable Matilda, Stone.

Papers sent to Paris in the cases of "Lydia," Chevers, and "Zeno," Stow.

Of the Danish list of 1810, six, viz:

Nimrod, Smith,	Minerva Smyth, Mann,
William & Jane, Bunker,	Washington, Almy,
Fair Trader, Craig,	Ariel, Butler.

Of the convoy cases, ten, viz:

Annawan, Donaldson,	Hesper, Cushing,
Hope, Rhea,	Janus, Gawn,
Mary, Ropes,	Elizabeth, Campbell,
Hope, Meik,	Polly, Graves,
Rebecca, Meik,	Iris, Russell.

No. 5.

List of Cases finally condemned. [Received in Mr. Erving's Letter of July 15, 1811.]

Vessels.	*Masters.*	*Owners.*	*From*	*Bound to*	*Cargoes.*	*Value of Invoice.*	*Date of Capture.*	*Carried into*	*Date of condemnation.*	*Remarks.*
							1809.		1809.	
Jane,	M'Lellan,	A. M'Lellan,	Portland,	Copenhagen,	Cotton, rice and timber,	23,000	May 4.	Egvog,	Dec. 18.	
Suwarrow,	Leech,	Thorndike & co.	Beverly,	Gothenburg,	Tobacco,	20,000	April 30.	Fahrsund,	28.	
Pacifick,	Beckets,	John Andrew,	Salem,	do.	Flour, rice, tobacco, sugar & rum,	31,000	June 16.	Christiansand,	18.	Condemned. These are of the Norway list for 1809.
Commerce,	Skinner,	Pratt & Kintzing,	Philadelphia,	do.	Sugar, rice, cotton, coffee, tea, cocoa and indigo,	85,000	19.	Fahrsund,		
Topaz,	Herrick,	B. Pierce & oth.	Newburyport,	Copenhagen,	Sugar and coffee,	60,000	Aug. 8.	Fleckefiord,		
Industry,	Bryant,	W. Pennock,	Glasgow,	Gothenburg,	Ballast,		20.	Christiansand,		
Adamant,	Stowle,		Batavia,							
Pigou,	Collet,		Archangel,							Cond. Norway extra list for 1809.
Aurora,	Hall,			Bergen,						
Volante,	Cark,			Liverpool,				Fleckefiord,		Cond. Of the Norway list, 1810.
Imogene,	Jewett,		Virginia,					do.		
Mary Pilke,	Myer,		Newburyport,					Copenhagen,		
Lydia,	Crabtree,		Charleston,					do.		
Argo,	Wheelwright,		Norfolk,					do.		
Nereid,	Squires,		Charleston,					do.		
Drummond,	Butler,		Philadelphia,					do.		
Swift,	Champlin,		New York,					do.		
Franklin,	Adams,		Terra Vechia,					do.		
Herald,	Barron,		Petersburg, Va.					do.		
Georgia Planter,	Brown,		Do.					do.		Cond. These are of the Denmark list for 1810.
Ganges,	Tracy,		Cadiz,					do.		
Hampton,	Holmes,		Newport,					do.		
Cremer,	Swarey,		Boston,					do.		N. B. Including three in which no appeal was made by the masters.
Fisher Ames,	Greenland,		Alicante,					do.		
Catharine Jane,	Darling,		St. Michaels,					do.		
Magnet,	Swett,		Cadiz,					do.		
Olive Branch,	Howland,	New Bedford,						do.		
Fanny Sewell,	Gale,	St. Michaels,						Aalbourg,		
Cleopatra,	Brown,	Wiscasset,						do.		
Canton,	Smith,	Providence,						Wordurborg,		
Flora,	Connell,	Carlsham,						do.		
William Gray,	Foster,	Salem,						Naschou,		
								Copenhagen,		

No. 5.—Continued.

Vessels.	*Masters.*	*Owners.*	*From*	*Bound to*	*Cargoes.*	*Value of invoice.*	*Date of capture.*	*Date of cond.*	*Remarks.*
Sophia,	M'Intire,	Gothenburg,	Liverpool,						
Eliza,	Luffkin,	do.	do.						
Margaret,	Porter,								
Minerva,	Jackson,								
Eliza,	Moore,								Of the convoy list, 1810.
Volunteer,	Leeds,								
Eliza,	Morgan,								
Vermont,	Nichols,								
Rebecca,	Nimmo,		Memel,	Teneriffe,				April 8, 1809.	
Commerce,	Otis,							July 11.	
Ann Louisa,	Roche,							Aug 21.	
James,	Coffin,							Oct. 2.	Condemned. These are of the Denmark list for 1809.
Two Friends,	Livingston,							9.	
Moses Gill,	M'Com,							Nov. 25.	
	Swain,								

No. 6.

The foregoing statements exhibit the situation of American claims on the 30th May, 1811.

It appears that there were—

Captures in 1809	63	
Do, 1811	124	
		187 total.
Cleared	114	
Condemned	31	
Pending	14	
Convoy cases pending	10	
Condemned cases of a desperate character	16	
Cases transferred to Paris	2	
		187 total.

Note of the further proceedings on the 24 pending cases, subsequent to May 30, 1811, (including convoy cases) viz.

Vessels.	*Masters.*	*In list.*	*Date of*	*Proceedings.*
Amiable Matilda,	Hague,	Norway list, 1810,	June 5.	Released, paying costs.
Minerva,	Baker,	do.	15	Released.
Richmond,	Jarvis,	do.	11.	Released.
Nimrod,	Smith,	Denmark list, 1810,	15.	Released, sentence arrested on petition of captors to the king: but finally released.
Iris,	Russell,	Convoy case,	July 2.	Condemned.
Mary,	Ropes,	do.		do.
Hope,	Meik,	do.		do.
Rebecca,	Meik,	do.		do.
Janus,	Gawn,	do.	9.	do.
Egeria,	Law,	Norway list, 1810,	13.	Acquitted: 1000 rix dollars.
William & Jane,	Bunker,	Danish list, 1810,		Acquitted.

No. 7.

LIST of AMERICAN VESSELS which have entered Norway, the Belt or Sound, have been captured, or have passed without interruption, since the 30th of May, 1811, or intelligence respecting which has been received since that date. And note of the proceedings on such of them as have been detained: this List comprising the whole of the American cases for the year 1811—viz.

Vessels.	*Masters.*	*Of*	*From*	*Bound to*	*Cargo.*	*Owners.*	*Date.*	*Proceedings.*
Rachel,	Joseph,	Salem,	Boston,	Russia,	Sugar, &c.		April 1.	Cond. in lower court, appeal pending.
Charlotte,	Pierce,	Boston,	do.	Stockholm,	do.			do.
Augusta,	Flint,	Salem,	Salem,	Petersburg,	Sugar, coffee,	Joseph Peabody,	June 11.	Cleared, no appeal.
Swift,	Clarkson,	Newburyport	Newburyport	Memel,	Cotton, rum,	Benjamin Merrill,	7.	Cleared.
Experiment,	Vibbert,	New York,	New York,	St. Petersburg,	Coffee, indigo, cloves,	Minturn & Champlin,	May 27.	Passed without interruption.
Concordia,	Johnson,	do.	do.	do.	Cotton, sugar, cocoa,	H. A. &. J. G. Coster,	30.	do.
Orestes,	Allan,	Salem,	Salem,	do.	Sugar, pepper, indigo,	Hugh M'Cullock,		do.
Wm. & Eliza,	Howland,	New Bedford,	New Bedford,	do.	Cotton, rice, tobacco,	William Rock & Sons,		do.
Iris,	Woodbury,	Boston,	Boston,	do.	Cotton, logwood,	H. Gray,		do.
Swift,	Daggett,	Providence,	Providence,	do.	do. do.	Bullock & Richmond,		do.
Washington,	Storey,	Salem,	Salem,	do.	do. do.	William Orne,		do.
Pauline,	Coffin,	New York,	New York,	Riga,	Coffee, cotton, mace,	F. & F. Didricks,		do.
Horace,	Leach,	Salem,	Salem,	Stettin,	Cotton, ginger, hides,	William Gray,		do.
Herald,	Silsby,	do.	do.	St. Petersburg,	Cotton, logwood,	Silsby and Co.	June 2.	Cleared with damages, being the first case of damages at Copenhagen.

No. 7.—Continued.

Vessels.	*Masters.*	*Of*	*From*	*Bound to*	*Cargo.*	*Owners.*	*Date.*	*Proceedings.*
Catharine,	Endicott,	Salem,	Riga,	Salem,	Iron, hemp, &c.	Peabody and Tucker,	June 3.	Passed.
Henry,	Harris,	do.	Salem,	Petersburg,	Sugar,	J. W. Ward and Co.	4.	do. without interruption.
Union,	Proctor,	Marblehead,	Marblehead,	do.	do.	W. and N. Hooper,	7.	do.
William,	Stanley,	Boston,	Rival,	Boston,	Hemp, iron, duck,	W. R. Gray,		do.
Adeline,	Felt,	Newport,	Newport,	St. Petersburg,	Cotton, ginger, &c.	Joseph White,	10.	do.
William,	Knight,	Boston,	Boston,	do.	Rum, cotton, &c.	Swift & Co.		do.
Jason,	Frost,	Salem,	Salem,	do.	Sugar, coffee, &c.	Charles Saunders,	11.	do.
Sukey,	Osgood,	do.	do.	do.	do.	Stephen Phillips,	13.	do.
Sachem,	Howland,	Bostou,	Boston,	do.	Cotton,	John Holland,		do.
Mentor,	Ashton,	Salem,	Salem,	do.	Cotton, rum, &c.	J. Ashton and Co.		do.
Sally,	Giddings,	Beverly,	Beverly,	do.	Rice, sugar, &c.	Leech, Stephens & Killan,		do.
John Adams,	Downing,	Boston,	Savannah,	do.	Cotton,	Waller and Foster,		do.
Jewel,	Robinson,	Portland,	Portland,	do.	Rice, cotton, logwood,	Wm. Widgery,		do.
Columbia,	Dixon,	Philadelphia,	Philadelphia,	do.	Sugar, coffee, cotton,	John Bohlan,	17.	do.
Success,	Porter,	Salem,	Salem,	do.	Cotton, logwood,	John and Stephen White,		do.
Adamant,	Eames,	Boston,	Boston,	Baltic,	Cotton, hides, wood,	Loring, Curtis & the capt.		Waiting to sell part of cargo—admitted to sell.
Betsey	Barker,	do.	do.	Petersburg,	Ginger, sugar, &c.	Wm. Parsons,	19.	Passed without interruption.
Mary Ann,	Wilman,	Salem,	Salem,	do.	Sugar, coffee, indigo,	Silsby and Stone,		do.
Alexander,	Davis,	Boston,	Algiers,	do.	Oil,	W. R. Gray,		do.
Transport,	Mathews,	New York,	New York,	do.	Mace, cotton, spice,	Le Roy & sons, Le Roy, Bayard & M'Evers,		do.
Hope,	Pearl,	Salem,	Newport,	do.	Cotton,	Samuel Gray,	20.	do.
Alknomac,	Iris,	New York,	New York,	do.	Cotton, bark,	H. A. and J. G. Coster,		do.
Rubicon,	Hovey,	Boston,	Savannah,	do.	Cotton, rice, logwood,	William Gray,	21.	do.
Orient,	Andrews,	Marblehead,	Marblehead,	do.	Sugar, logwood,	R. Hooper and Sons,		do.
Dover,	Burroughs,	Providence,	St. Michaels,	do.	Lemons, 150 boxes,	S. G. Arnold and Joseph S. Martin,		Detained and released.
Amsterdam Packet,	Bailey,	New York,	New York,	Baltic,	Tobacco, cotton, wood,	Minturn and Champlin,	20.	Waiting to be allowed to sell at Copenhagen—permitted to sell.
Lady Madison,	Swain,	do.	do.	St. Petersburg,	Sugar, coffee, cotton,	Jacob Barker,	22.	Passed.
Arno,	Merchant,	Boston,	Boston,	do.	Sugar, cotton, &c.	John Brazier,		Passed.
John,	Reynolds,	Providence,	Providence,	do.	Tobacco, rice, cotton,	Richd. and Bullock,		Passed without interruption.
Juno,	Page,	Salem,	Salem,	do.	Sugar, coffee, cotton,	J. W. Saunders and Co.	23.	do.
Hannah,	Lade,	Portsmouth,	New York,	do.	do.	Wm. Lade and brothers,	25.	do.
Columbus,	Robin,	Plymouth,	do.	do.	Cotton, &c.	D. and C. Jackson,		do.
Dolly,	Parsons,	Newburyport,	Tonningen,	do.	Sugar, coffee, &c.	Step. Holld. & B. Merrill,		do.
Rebecca,	Searl,	Salem,	Salem,	do.	Cotton, logwood,	Samuel Page and Co.		do.
William,	Goodwin,	Boston,	Lisbon,	do.	Fruit, &c.	C. Coolidge and Co.		Taken and sent to Copenhagen, released July 5th.
Argo,	Barnes,	Baltimore,	Baltimore,	do.	Sugar, coffee, cotton,	Gooding and Hutchins,	26.	Passed without interruption.
Joseph,	Allan,		Boston,				28.	Taken and sent to Copenhagen.
William & Henry,	Seabury,	Newport,	Petersburg,	Charleston,	Iron, hemp, &c.	Hindley & Gregory,	29.	Gone home.
Hugh Johnson,	Johnson,	Boston,	Boston,				July 8.	Passed.
Hope,	Lovett,	do.	do.					do.
Cordelia,	Boil,	do.	do.	do.				do.
General Hamilton,	Holdon,	New Orleans,	New Orleans,	do.				do.
Milford,	Weeks,	Portland,	Portland,					do.
George,	Howland,	New Bedford,	New Bedford,					Taken.

July 15, 1811—Of these 58 vessels, the "Rachel, Joseph," "Joseph, Allan," and "George, Howland" only are detained; there is no probability that either of them will be condemned.

The two which have desired to sell their cargoes have been permitted to sell. More ships than those in the above list are known to have passed, but the names of them are not yet received.

G. W. E.



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